

Agenda Reporting Child Abuse

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A GUIDE TO REPORTING CHILD ABUSE TO THE DEPARTMENT OF JUSTICE

A handbook to guide child protective agency investigators through
Department of Justice child abuse reporting requirements.

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ACQUISITIONS

Prepared by the Department of Justice,
Bureau of Criminal Statistics and Special Services,
Child Abuse Unit

1988



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FOREWARD

This guide to child abuse reporting was prepared by the Department of Justice for use by child abuse investigators, and others, who fill out child abuse reports and submit them to the Department of Justice.

Although the Department of Justice maintains the statewide child abuse file, all of us share the responsibility for accurate and timely records to ensure their usefulness in investigations.

Department of Justice
Bureau of Criminal Statistics and Special Services
P.O. Box 903417
Sacramento, CA 94203-4170
Attention: Child Abuse Unit
(916) 739-5109; ATSS 8-497-5109

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INTRODUCTION

The Child Abuse Unit of the Department of Justice is responsible for maintaining a central file of all investigated reports of child abuse submitted since 1965. The file consists of reports received from police, sheriff, county welfare and county probation departments.

The Child Abuse Unit receives, documents, searches for and relays information contained in these reports. As a child protective agency investigator you may call us to see if another agency has submitted a report with information relating to the suspects and victims in your current investigation. Likewise, child abuse investigators from other agencies may need information you have submitted. Therefore, the reports you submit are vitally important throughout California.

In its role as intermediary between child protective agency investigators, the Child Abuse Unit has prepared this guide to:

- explain requirements.
- define responsibilities.
- offer assistance regarding the process for reporting child abuse investigations to DOJ.
- explain how to obtain child abuse information from DOJ.

The guide is designed to be used frequently for reference, whether at your desk or in the field. Sections are divided into the basic questions: why, who, what, how, when and where. A special section answers questions most often asked by investigators. An appendix contains sections of California laws that pertain to child abuse reporting, samples of reporting forms, and a simplified chart showing how the process works.

Graphic designs are displayed in the table of contents and repeated on each page in association with the sections they represent. This allows a fast, easy way to find what you're looking for in a variety of situations and conditions.

Working together and exchanging information, we can fulfill our duty to the law and our obligation to California's children.

DEFINITION OF TERMS

- **Child.** Means a person from birth through 17 years. By law, all abuse to and neglect of a person defined as a child must be reported. The law excludes from this reporting requirement a fetus and a person who is currently an adult but who was abused as a child.
- **Unfounded.** Means that an investigator has determined, based on facts, that there was no child abuse. (Penal Code section 11165.12 states: "unfounded means . . . to be false, to be inherently improbable, to involve an accidental injury.)
- **Unsubstantiated.** Means that from the facts available, an investigator was unable to determine whether or not there was child abuse.
- **Abuse suspected or substantiated.** Means that an investigator had a reasonable certainty at the time the Department of Justice Child Abuse Investigation Report was submitted that child abuse had occurred.
- **Child Protective Agency (CPA).** Means a police department, a sheriff's department, a county welfare department, or a county probation department.
- **Child Protective Agency Investigator.** Means a person employed by a child protective agency who is responsible for inquiring into the details of a report of suspected child abuse.
(NOTE: Throughout this manual the use of the term "investigator" shall mean a child protective agency investigator.)



WHY REPORT

All California CPAs, as well as those throughout the rest of the country, use the Child Abuse Central Index to obtain information from other agencies to complete investigations of child abuse.

Help yourself

Information contained in these reports is available for CPAs to:

- Determine if the victim is in imminent danger.
- Learn if victim has been abused before.
- Establish behavior pattern of child abuser.
- Discover if suspect has been named as child abuser in prior reports.
- Support investigative findings to prosecute the suspect.

Help others

Other child protective agencies in California depend on the information you supply for our files to be complete and accurate to help them in their investigations.

Obey the law

Reports are not only vital in the investigation and determination of child abuse incidents, but it is the law for CPAs to report to the Department of Justice.

The law also requires you to cross-report with other CPAs in your county to coordinate existing duties in connection with the investigation of suspected child abuse cases.

***REPORTS TO US
HELP YOU***



We can help you

The staff of the Child Abuse Unit processes your reports, enters the information in permanent files, searches the files to locate information you've requested, and relays that information back to you. It is the reports you send us that provide information used throughout California. We, and every child protective agency, rely on your reports to be accurate, complete and timely.

Our files contain investigated reports of suspected child abuse and may offer information not found in criminal history system files, which are derived from arrest and conviction data.

While we may help you clear some cases by referring you to other agencies with possible pertinent information, we do have some limitations:

- Not every inquiry will produce pertinent information.
- The quality of information available depends on the quality of information contained in reports submitted to us.
- Information relayed by us is intended to direct you to information held by other agencies. We do not conduct investigations and do not have complete investigation files with dispositions.

HOW TO USE OUR SERVICES

Depending on how urgently you need the child abuse information, use the following method of contacting us.

- **TELEPHONE** if you need the information immediately. If pertinent information is found, you will be contacted within two hours. Before or during an investigation you may call:

Child Abuse Unit, Department of Justice
(916) 739-5109 ATSS: 8-497-5109

[After 4:30 p.m., weekends and holidays requests to this telephone number will be automatically referred to the Command Center, which will provide the same service.]

When you call, please have available the names and dates of birth of victim and suspect, the nature of the inquiry, the type of abuse, your name and the agency you represent, and a phone number where the information can be relayed.

- **TELETYPE** if your need for the information is less urgent, and if you have access to the California Law Enforcement Telecommunications System (CLETS). You will be contacted within 24 hours. The format for a teletype inquiry is:

[Mnemonic for the Department of Justice: DOJ]

ATTENTION: Child Abuse Unit

SUBJECT: Child Abuse Central Index check for the below listed subjects.

TYPE OF INVESTIGATION: Physical

Name of Subject	Sex	Race	DOB	Subject Status
JONES, Dorothy Louise	F	W	010185	V (Victim)
JONES, William Robert	M	W	020246	S (Suspect)
JONES, Louise Ann	F	W	030347	S

REFER: Detective Joe Watkins, Child Abuse Unit Mnemonic YSB

AGENCY: Los Angeles County Sheriff's Office

- **REPORT SUBMITTED BY MAIL.** Every SS8583 report received by us generates an inquiry. If we find pertinent information, you will be notified by mail within two weeks following our receipt of the report. If no pertinent information is found, we will not contact you.



WHO REPORTS

Child abuse investigators who work for police and sheriff's departments, county welfare departments and county probation departments must report to the Department of Justice all investigated cases of child abuse 1) determined not to be unfounded, and 2) mandated by law to be reported (see section, **What to Report** for specific laws).

REMEMBER

Child abuse investigators working for CPAs must also cross-report to other CPAs. For example, if you're a police department with jurisdiction over and investigating a case, you must call the county welfare department immediately and then submit a written report with 36 hours to inform someone there. Forms SS8583 or SS8572 may be used to cross-report.



WHAT TO REPORT

The following types of child abuse include what you must report and what you do not report to us. Refer to Appendix for complete code sections listed below.

The basic categories of child abuse are:

Sexual (Includes exploitation, assault and incest)

Physical

Neglect

Mental/Emotional

SEXUAL ASSAULT means:

1. Rape (Penal Code sections 261 and 264.1)
2. Incest (Penal Code section 285)
3. Sodomy (Penal Code section 286)
4. Lewd and lascivious acts upon body of child under 14 (Penal Code section 288(a), (b))
5. Oral copulation (Penal Code section 288a)
6. Penetration of genital or anal openings by foreign object (Penal Code section 289)
7. Child molesting (Penal Code section 647.6)
8. Certain other sexual acts (Penal Code section 11165.1 (b)) including:
 - a. penetration of vagina or anus by penis.
 - b. sexual contact between genitals or anus by mouth or tongue.
 - c. intrusion into genitals or anus by any object.
 - d. intentional touching of genitals or intimate parts to arouse or gratify.
 - e. intentional masturbation of perpetrator's genitals in child's presence.

DO NOT REPORT acts of consensual sexual behavior between children under 14 who are of a similar age; or, acts of unlawful sexual intercourse (statutory rape) (Penal Code section 261.5).

SEXUAL EXPLOITATION means:

1. Sending or bringing into state for sale or distribution matter depicting sexual conduct by minors (Penal Code section 311.2)
2. Employment of minor to perform prohibited acts (Penal Code section 311.4(a))
3. Depicting by film, photograph, videotape, etc. sexual conduct by person under 14 (Penal Code section 311.3)
4. Aiding, promoting, coercing, etc., a child to perform obscene sexual acts for the purpose of producing pictorial depictions. (Penal Code section 311.3)



PHYSICAL ABUSE means a report of physical injury which is inflicted by other than accidental means on a child by another person and includes:

1. Willful cruelty or unjustifiable punishment (Penal Code section 11165.3)
2. Unlawful corporal punishment or injury (Penal Code section 11165.4)
3. Any acts or omissions cited in Penal Code Sections 273a, 273d.

DO NOT REPORT

- incidents of accidental injury or injuries.
- reasonable force by public school employee to stop violent disturbance or to exercise physical control. (Penal Code section 11165.4, Education Code sections 44807 and 49001)
- mutual fights between minors. (Penal Code section 11165.6)

NOTE: Report any deaths resulting from physical abuse, evidence of prior physical abuse or severe neglect.

MENTAL/EMOTIONAL means the infliction of mental/emotional suffering (Penal Code section 11165.3).

(NOTE: Although Penal Code section 11166(b) allows mandated reporters discretion of whether or not to report, if they do report to you, you, in turn, must report to us.)

NEGLECT means the negligent treatment or maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare and includes both acts and omissions on the part of the responsible person.

REPORT Severe Neglect, which means that the child's welfare has been risked or endangered or has been ignored to a point that the child has failed to thrive. (Generally, the standard is that a child has been physically harmed or that a very high probability exists that acts or omissions by responsible person would lead to physical harm.) (Penal Code section 11165.2(a))

DO NOT REPORT General Neglect which means that the person responsible for the child's welfare has failed to provide adequate care but has not physically injured the child. Examples of general neglect include lack of supervision of a child and abandonment, if there is not evidence of child abuse. (Penal Code section 11165.2(b))

NOTE: Report any deaths resulting from severe neglect, physical abuse or evidence of prior physical abuse.

DO NOT submit unfounded reports. Reasons for unfounded reports may include false reporting, improbable incidents, accidents, and events that do not constitute child abuse as defined by law.

DO NOT submit reports of fetal abuse. Fetal abuse may include adversely affecting the well-being of an unborn child and evidence of illegal drugs or alcohol in just-born infant.

DO NOT submit reports from adults stating they were victims of child abuse when they were children.

DO NOT submit reports of child stealing unless they involve child abuse.

DO NOT submit reports of general neglect.

DO NOT submit reports of acts of consensual sexual behavior between children under 14 who are of a similar age.



HOW TO REPORT

To help ensure the accuracy and completeness of reports, we will explain the child abuse investigation report form SS8583 section-by-section to help you complete the form correctly.

GENERAL INSTRUCTIONS

1. For reporting to the Department of Justice, use form SS8583 only.
2. All information blocks should be completed by the investigating CPA.
3. To allow complete reporting to the Department of Justice, if any information is unknown or not available, indicate by writing "UNK" in the applicable information block, or we may have to return form to you.
4. All shaded areas of form must be completed.
5. If either the name of your agency or the report/case number is missing, we will return your report without processing it because, without this information, the report is incomplete and cannot be used either by us or by other agencies.
6. For cross-reporting, use form SS8583 or SS8572.

To make it easier, we have forms for your use:

The Department of Justice has prepared standardized forms:

1. **CHILD ABUSE INVESTIGATION REPORT — SS8583** — for use by CPAs to submit to the Department of Justice. [This form may used to cross-report].
2. **SUSPECTED CHILD ABUSE REPORT — SS8572** — for use by mandated reporters to submit to CPAs. This form is often referred to as the "11166."
3. **MEDICAL REPORT-SUSPECTED CHILD ABUSE — DOJ900** — for use by mandated medical reporters to submit to CPAs.

NOTE: Medical reporters are generally required to submit both this form and the SS8572 to a CPA to comply with reporting requirements.

These forms can be obtained from:

Department of Justice

Bureau of Criminal Statistics and Special Services

P.O. Box 903417

Sacramento, CA 94203-4170

Attention: Child Abuse Central Index

(916) 739-5109; ATSS 8-497-5109

In addition, the law requires certain mandated medical reporters to submit the following Office of Criminal Justice Planning (OCJP) forms to their local CPAs to report examinations resulting from sexual assaults of children:

1. **MEDICAL REPORT - SUSPECTED CHILD SEXUAL ABUSE — OCJP 925**
2. **MEDICAL REPORT - SUSPECTED SEXUAL ASSAULT — OCJP 923**

These forms can be obtained from:

Office of Criminal Justice Planning

1130 K Street, Suite 300

Sacramento, CA 95814

(916) 324-9120

Investigator means a child abuse investigator working for a CPA.

Reporter means a person required by law to report incidents of suspected child abuse to CPAs.

Section A. Investigating Agency



A. INVESTIGATING AGENCY	1. INVESTIGATING AGENCY (Enter complete name and check type):		<input type="checkbox"/> POLICE	<input type="checkbox"/> WELFARE
			<input type="checkbox"/> SHERIFF	<input type="checkbox"/> PROBATION
	3. AGENCY ADDRESS: Street City		2. AGENCY REPORT NO./CASE NAME:	
	5. NAME OF INVESTIGATED PARTY: TITLE		4. AGENCY TELEPHONE: EXT:	
	7. AGENCY CROSS-REPORTED TO:		8. DATE REPORT COMPLETED: MO DA YR	
	6. PERSON CROSS-REPORTED TO:		9. DATE CROSS-REPORTED: MO DA YR	
10. ACTION TAKEN (check only one box):				
<input type="checkbox"/> (1) ABUSE SUSPECTED <input type="checkbox"/> (2) UNSUBSTANTIATED-ABUSE NOT PROVEN <input type="checkbox"/> (3) SUPPLEMENTAL INFORMATION (attach copy of original report) <input type="checkbox"/> (4) UNPROSECUTED <input type="checkbox"/> (5) ADDITIONAL INFORMATION <input type="checkbox"/> (6) UNFOUNDED (false report, mistaken, imprudent)				
11. COMMENTS:				

1. Name and Type of Investigating Agency:

Fill in the name of your agency and check box for appropriate type, whether police, sheriff, welfare or probation. [Shaded. We will not process the report without this information.]

1. INVESTIGATING AGENCY (Enter complete name and check type):	<input type="checkbox"/> POLICE	<input type="checkbox"/> WELFARE
	<input type="checkbox"/> SHERIFF	<input type="checkbox"/> PROBATION

2. Agency Report Number/Case Number:

Fill in your report number and/or the name you've assigned to the case. This information is important for other agencies to use as a reference when contacting you about this particular case. [Shaded. We will not process the report without this information.]

2. AGENCY REPORT NO./CASE NAME:

3. *Agency address:*

Fill in the complete address of your agency. [Shaded.]

3. AGENCY ADDRESS:

Street

City

4. *Agency Telephone and Extension:*

Fill in either your telephone number and extension number or a number where an investigator can locate the records.

4. AGENCY TELEPHONE:

EXT:

5. *Name of Investigating Party and Title:*

Fill in your name and title. [Shaded.]

5. NAME OF INVESTIGATING PARTY:

TITLE

6. *Date Report Completed:*

Fill in date of actual completion of form SS8583.

6. DATE REPORT
COMPLETED:

MO

DA

YR

7. *Agency Cross-reported to:*

Fill in the name of the CPA you notified about report of suspected child abuse.

7. AGENCY CROSS-REPORTED TO:



8. *Person Cross-reported to:*

Fill in the name of the person you notified about report of suspected child abuse.

8. PERSON CROSS-REPORTED TO:

9. *Date Cross-reported:*

Fill in actual date you notified the CPA about report of suspected child abuse.

9. DATE CROSS-REPORTED: MO DA YR

10. *Action Taken:*

- 1) abuse is suspected.
- 2) abuse is unsubstantiated.
- 3) Use this section if you have previously completed and submitted to DOJ an SS8583, and you want to report additional significant information. Complete information blocks 1 through 5 in Section A and the following pertinent information blocks pertaining to the additional information.
 - a) You are reporting that the child abuse is unsubstantiated.
 - b) You are reporting that the child abuse is unfounded.
 - c) You are reporting additional facts discovered during your investigation that are significant to the case. Fill in appropriate information blocks on form (e.g., addition or deletion of suspects or victims).

10. ACTION TAKEN (check only one box)

☐ (1) ABUSE SUSPECTED

☐ (2) UNSUBSTANTIATED ABUSE NOT PROVEN

☐ (3) SUPPLEMENTAL INFORMATION (attach copy of original report)

☐ (4) UNSUBSTANTIATED

☐ (5) ADDITIONAL INFORMATION

☐ (6) UNFOUNDED (false report, accidental, imprudent)

11. *Comments:*

Describe significant facts or events that you think will assist other investigators.

11. COMMENTS:

Section B. Incident Information

B. INCIDENT INFORMATION	1. DATE OF INCIDENT: MO DA YR			2. TIME OF INCIDENT:		3. LOCATION OF INCIDENT:	
	4. NAME OF PARTY REPORTING INCIDENT:			TITLE:		5. EMPLOYER:	
	6. TELEPHONE: () ()						
	7. TYPE OF ABUSE (check one or more):						
	<input type="checkbox"/> (1) PHYSICAL <input type="checkbox"/> (2) MENTAL <input type="checkbox"/> (3) DECEIT (AND P.C.) <input type="checkbox"/> (4) OTHER VERBAL ABUSE <input type="checkbox"/> (5) SEXUAL EXPLOITATION <input type="checkbox"/> (6) SEVERE NEGLECT <input type="checkbox"/> (7) GENERAL NEGLECT <input type="checkbox"/> (8) OTHER						
8. IF ABUSE OCCURRED IN OUT-OF-HOME CARE, CHECK TYPE:							
<input type="checkbox"/> (1) FAMILY DAY CARE <input type="checkbox"/> (2) CHILD CARE CENTER <input type="checkbox"/> (3) FOSTER FAMILY HOME <input type="checkbox"/> (4) SMALL FAMILY HOME <input type="checkbox"/> (5) GROUP HOME OR INSTITUTION (enter name and address)							

1. Date of Incident:

Fill in date the event occurred. If abuse occurred over a period of time indicate time span. [Shaded]

1. DATE OF INCIDENT:	MO	DA	YR

2. Time of Incident:

Fill in time the event occurred.

2. TIME OF INCIDENT:

3. Location of Incident:

Fill in local address and description of premises where event occurred.

3. LOCATION OF INCIDENT:

4. Name of Party Reporting Incident:

Fill in the name of the person who reported the event and that person's title.

4. NAME OF PARTY REPORTING INCIDENT:	TITLE:



5. *Employer:*

Fill in the name of the employer (person or agency) for which the person originating the report of suspected child abuse works.

5. EMPLOYER: _____

6. *Telephone:*

Fill in the telephone number of the person reporting.

6. TELEPHONE: _____

()

7. *Type of Abuse* (If uncertain, refer to Penal Code sections in appendix):

[Shaded]

- 1) Physical
- 2) Mental
- 3) Incest
- 4) Other Sexual Assault*
- 5) Sexual Exploitation
- 6) Severe Neglect
- 7) General Neglect**
- 8) Other***

NOTE: * Do not submit report to DOJ if event involves consensual sexual behavior between minors under 14 years who are of similar age; or, if event involves acts of unlawful sexual intercourse (statutory rape) (Penal Code section 261.5).

****** Do not submit report to DOJ if event is general neglect.

******* Examples of this category include: fetal abuse; positive toxicology screen in just-born infant; abandonment, with no evidence of child abuse; no parental guidance or supervision. Do not submit report to DOJ if abuse falls into these categories.

7. TYPE OF ABUSE (check one or more).

☐ (1) PHYSICAL ☐ (2) MENTAL ☐ (3) INCEST (P.C.) ☐ (4) OTHER SEXUAL ASSAULT

☐ (5) SEXUAL EXPLOITATION

☐ (6) SEVERE NEGLECT

☐ (7) GENERAL NEGLECT

☐ (8) OTHER _____

8. If abuse occurred in out-of-home care, indicate by checking appropriate box if the incident of child abuse occurred in:
- 1) Family day care (Health & Safety Code section 1596.78)*
 - 2) Child-care center (Health & Safety Code section 1596.76)
 - 3) Foster family home (Health & Safety Code section 1502)
 - 4) Small family home (Health & Safety Code section 1502)**
 - 5) Group home or institution (California Code of Regulations, Title 11, Chapter 1, Subchapter 9, Article 3, Section 930.3)*** Include both name and address if this box checked.

- NOTE: *** Refers to a home that regularly provides care, protection and supervision of 12 or fewer children, in the provider's own home, for periods of less than 24 hours a day while parents or guardians are away.
- **** Refers to a residential facility providing 24-hour care for six or fewer foster children who have mental or physical needs that require special care and supervision. This does not refer to a private residence housing a family unit.
- ***** Refers to a nonfamily residential home that provides 24-hour care in a group setting for children in need of personal services.

8. IF ABUSE OCCURRED IN OUT-OF-HOME CARE, CHECK TYPE

☐ (1) FAMILY DAY CARE

☐ (2) CHILD CARE CENTER

☐ (3) FOSTER FAMILY HOME

☐ (4) SMALL FAMILY HOME

☐ (5) GROUP HOME OR

INSTITUTION-Enter name and address:

Section C. Involved Parties

VICTIMS	1. NAME: Last First Middle AKA				DOB MO DA YR				<input type="checkbox"/> MALE <input type="checkbox"/> FEMALE	
	ADDRESS: Street City State				DID VICTIM'S INJURIES RESULT IN DEATH? <input type="checkbox"/> YES <input type="checkbox"/> NO					
	PRESENT LOCATION OF VICTIM: TELEPHONE NUMBER:				NATURE OF INJURIES: <input type="checkbox"/> YES <input type="checkbox"/> NO					
					IS VICTIM DEVELOPMENTALLY DISABLED (ATTN: ME)? <input type="checkbox"/> YES <input type="checkbox"/> NO					
VICTIMS	2. NAME: Last First Middle AKA				DOB MO DA YR				<input type="checkbox"/> MALE <input type="checkbox"/> FEMALE	
	ADDRESS: Street City State				DID VICTIM'S INJURIES RESULT IN DEATH? <input type="checkbox"/> YES <input type="checkbox"/> NO					
	PRESENT LOCATION OF VICTIM: TELEPHONE NUMBER:				NATURE OF INJURIES: <input type="checkbox"/> YES <input type="checkbox"/> NO					
					IS VICTIM DEVELOPMENTALLY DISABLED (ATTN: ME)? <input type="checkbox"/> YES <input type="checkbox"/> NO					

Victims

1. Name, AKA, DOB, Sex, Race: [Shaded]
 - Fill in complete name of victim, including nicknames or other names used, such as maiden names. If victim is an as-yet-unnamed infant, or if name, or part of name is unknown or not available, indicate by writing "UNK" in appropriate place.
 - Fill in the date of the victim's birth, which is important to



- Fill in the date of the victim's birth, which is important to establish that victim is a minor.
- Check appropriate box to indicate whether victim is male or female.
- Fill in the race of the victim. Code for race types is printed at bottom of reporting form.

Address. Fill in complete address of victim.

Did victim's injuries result in death: Check appropriate box.

Nature of Injuries: Describe injuries (e.g., broken bones, burns, bruises).

Present location of victim: Fill in address where victim is currently located, including the victim's phone number.

Is victim Developmentally Disabled (Refer to Welfare & Institutions Code, sec. 4512(a) in Appendix for definition).

Check appropriate box.

SUSPECTS	1 NAME: Last First Middle				AKA		DOB MO DA YR				<input type="checkbox"/> MALE <input type="checkbox"/> FEMALE	
	ADDRESS: Street City State				HGT	WGT	EYES	HAIR	SOCIAL SECURITY NUMBER			
	RELATIONSHIP TO VICTIM: <input type="checkbox"/> (1) PARENT/STEPARENT <input type="checkbox"/> (2) SIBLING <input type="checkbox"/> (3) OTHER RELATIVE				DRIVER'S LICENSE NUMBER							
	<input type="checkbox"/> (4) FRIEND/ACQUAINTANCE <input type="checkbox"/> (5) STRANGER <input type="checkbox"/> (6) OTHER											
SUSPECTS	2 NAME: Last First Middle				AKA		DOB MO DA YR				<input type="checkbox"/> MALE <input type="checkbox"/> FEMALE	
	ADDRESS: Street City State				HGT	WGT	EYES	HAIR	SOCIAL SECURITY NUMBER			
	RELATIONSHIP TO VICTIM: <input type="checkbox"/> (1) PARENT/STEPARENT <input type="checkbox"/> (2) SIBLING <input type="checkbox"/> (3) OTHER RELATIVE				DRIVER'S LICENSE NUMBER							
	<input type="checkbox"/> (4) FRIEND/ACQUAINTANCE <input type="checkbox"/> (5) STRANGER <input type="checkbox"/> (6) OTHER											

Suspects

2. Name, AKA, DOB, Sex, Race. [Shaded]

- Fill in complete name of suspect, including any nicknames or other names used, such as maiden names. If all, or any part of the suspect's name is unknown or not available, indicate by writing "UNK".
- Fill in the complete date of birth of the suspect.
- Check appropriate box to indicate whether suspect is male or female.
- Fill in the race of the suspect. Codes appear at the bottom of the reporting form.

Address, Hgt, Wgt, Eyes, Hair, Social Security Number: Fill in the complete address, the height, weight, eye color, hair color, and social security number of the suspect.

Relationship to victim: Check appropriate box to indicate whether suspect is

- 1) parent or stepparent of victim.
- 2) brother or sister of victim.
- 3) other relative, such as aunt, uncle, cousin, etc. of victim.
- 4) friend or acquaintance of victim.
- 5) stranger and unknown to victim.
- 6) other, if above categories don't fit.

Driver's license number: Fill in the driver's license number of the suspect.

OTHER	11 NAME	Last	First	Middle	<input type="checkbox"/> (1) PARENT/STEPPARENT	DO	MO	DA	YR	<input type="checkbox"/> MALE	RACE
					<input type="checkbox"/> (2) SIBLING	DO	MO	DA	YR	<input type="checkbox"/> FEMALE	
	12 NAME	Last	First	Middle	<input type="checkbox"/> (1) PARENT/STEPPARENT	DO	MO	DA	YR	<input type="checkbox"/> MALE	RACE
					<input type="checkbox"/> (2) SIBLING	DO	MO	DA	YR	<input type="checkbox"/> FEMALE	

Other: Include in this category anyone else who was involved in the incident but is neither victim nor suspect.

NOTE: At bottom of form is a box to check if you are attaching additional information. If checked, this box alerts us to look for attachments.



WHEN TO REPORT

Send DOJ Form SS8583 to us after you've made investigative contacts and determined that the child abuse report was not unfounded and the suspected abuse or neglect is reportable to the Department of Justice.

The investigation need not be completed to send us the report, but you should have as much required information available as possible. If either the name of your agency or the report/case number is missing, we will return your report without processing it.

The information you submit may contribute to the success of another investigation, and therefore it is essential that your report be complete, accurate and timely to provide the maximum benefit in protecting children and identifying and prosecuting suspects.

If you have any questions about Department of Justice reporting or need a victim/suspect name check, call the Department of Justice Child Abuse Unit at (916) 739-5109 or ATSS: 8-497-5109.

Remember: You must cross-report by phone immediately and by mail within 36 hours of receiving a report of suspected child abuse from a mandated reporter or from a citizen. You may use either form SS8572 or SS8583 to cross-report. [The 36 hour cross-reporting requirement **does not apply** to Department of Justice reporting requirements.]



WHERE TO REPORT

Send completed DOJ form SS8583 to:

Department of Justice
Bureau of Criminal Statistics and Special Services
P.O. Box 903417
Sacramento, CA 94203-4170
ATTENTION: Child Abuse Central Index



QUESTIONS AND ANSWERS

- Q.** Do all incidents of suspected child abuse reported to your agency by mandated and nonmandated reporters require an SS8583 to be sent to DOJ?
- A.** No. The Child Abuse Reporting Law requires an investigator to send an SS8583 to DOJ only if all of the following conditions exist. The incident:
1. was actively investigated.
 2. was proven not to be unfounded.
 3. met the reporting standards specified in this guide.
- Q.** Is an investigator required to send an SS8583 to DOJ within 36 hours?
- A.** No. Unlike mandated reporters reporting to a CPA or CPAs cross-reporting to each other, a CPA investigator reporting to DOJ is not required to send a report to DOJ within 36 hours. However, the investigator must submit the SS8583 to DOJ within a reasonable time. Investigators must report to DOJ without unreasonable delay, but should not sacrifice accuracy of information to get reports "off their desks."

- Q. Are all sexually related criminal offenses involving children considered reportable child abuse?
- A. No. Only those types of sexual abuse listed in the Reporting Law are required to be reported to DOJ. If an investigated incident is not included in those offenses listed in the law, the incident is not reportable and an SS8583 should not be sent to DOJ. Examples of nonreportable types of sexual conduct include statutory rape (unlawful sexual intercourse, Penal Code section 261.5), and voluntary, consensual sexual activity between minors under the age of 14 who are of a similar age.
- Q. Are all incidents of neglect involving a child considered reportable as child abuse to DOJ?
- A. No. Penal Code section 11169 specifically excludes reporting to DOJ incidents of general neglect. For DOJ reporting purposes, a general neglect incident includes lack of supervision, caretaker absence and abandonment in which there is a low probability of physical harm to the child, and if no other type of reportable child abuse has occurred. But remember, all incidents of severe neglect are reportable and include any incident in which the child is exposed to a high probability of harm because of acts or omissions by the person responsible for the child's welfare.
- Q. Why does DOJ return SS8583 reports?
- A. For DOJ to maintain accurate records to help other investigators, we must occasionally return reports that lack information critical to future investigations or are illegible. If a report is returned to an investigator, we ask that the requested information be provided and the corrected SS8583 sent back to us. The information will be entered into our files and made available to the investigators.



Q. What is supplemental DOJ reporting?

A. Supplemental DOJ reporting means any additional information that significantly changes the content of a previously submitted SS8583 report. Examples might include the discovery of information that changes the determination from suspected or unsubstantiated abuse to unfounded, or that leads to the addition or deletion of suspects or victims. Under the law, investigators are responsible for supplemental reporting of unfounded incidents.

Q. How quickly can an investigator get child abuse information from DOJ?

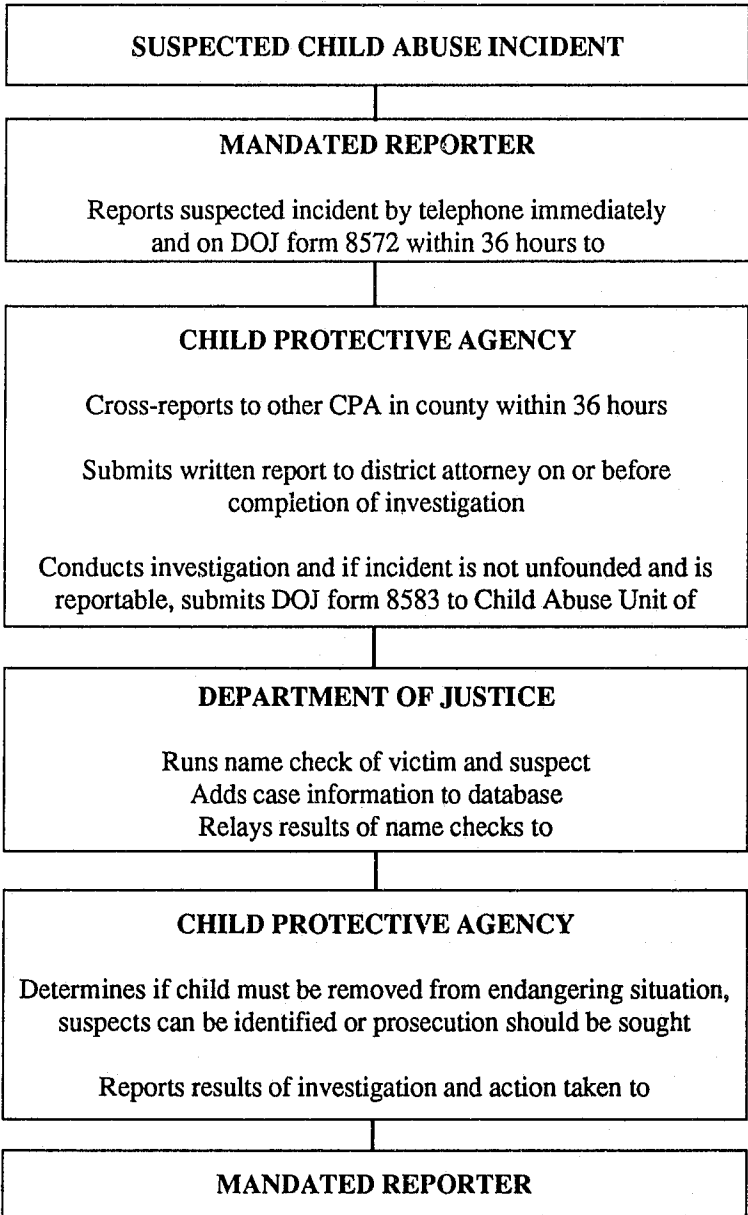
A. Child abuse information is as close as a telephone or a California Law Enforcement Telecommunications System (CLETS) terminal. In most cases, the SS8583 acts as both an information request and a data submission form. Responses will be sent in writing after the SS8583 is processed. However, if investigators have an immediate need for information or believe that subjects are from other jurisdictions, they can call the Child Abuse Unit at (916) 739-5109, ATSS 8-497-5109 or teletype a request through CLETS.

Q. Do I have to report child homicides?

A. Yes, if the death of the child is the result of a reportable type of child abuse you must send a report to us. This includes both those cases in which you can prove that reportable child abuse was the cause of death and those cases in which you cannot disprove that reportable child abuse was the cause of death.

APPENDIX

HOW THE SYSTEM WORKS



ARTICLE 2.5. CHILD ABUSE AND NEGLECT REPORTING ACT

Section

- 11165. Child.
- 11165.1. Sexual abuse; sexual assault; sexual exploitation.
- 11165.2. Neglect; severe neglect; general neglect.
- 11165.3. Willful cruelty or unjustifiable punishment of a child.
- 11165.4. Unlawful corporal punishment or injury.
- 11165.5. Abuse in out-of-home care.
- 11165.6. Child abuse.
- 11165.7. Child care custodian.
- 11165.8. Health practitioner.
- 11165.9. Child protective agency.
- 11165.10. Commercial film and photographic print processor.
- 11165.11. Licensing agency.
- 11165.12. Unfounded report.
- 11166. Report; duty; time.
- 11166.1. Report of abuse occurring in facilities licensed by State Department of Social Services; notice.
- 11166.1. Violation of reporting duties; punishment.
- 11166.2. Telephoned report of child abuse to licensed agencies; written reports.
- 11166.3. Legislative intent; cooperative arrangements for investigation; written findings; report.
- 11166.5. Employment as child care custodian, health practitioner, or with child protective agency; statement of knowledge of duty to report abuse.
- 11167. Report; contents.
- 11167.5. Confidentiality of reports; violations; disclosure.
- 11168. Written reports; forms.
- 11169. Reports of department of justice; investigations; unfounded reports; immunities.
- 11170. Indexed reports; notice to child protective agencies or district attorneys; availability of information; notice to parents or guardians.
- 11171. X-rays of child; exemption from privilege.
- 11171.5. X-rays without parental consent; application for order; liability for costs.
- 11172. Immunity from liability; liability for false reports; attorneys fees; failure to report; offense.
- 11174. Guidelines.
- 11174.1. Investigation of child abuse in facilities licensed to care for children; guidelines; conduct.
- 11174.3. Interviewing victim at school; presence of school staff member; confidentiality; admissibility of evidence; informing school districts and agency employees of section requirements.
- 11174.5. Repealed.

§ 11165. Child

As used in this article "child" means a person under the age of 18 years.
(Added by Stats. 1987, c. 1459, § 2.)

§ 11165.1. Sexual abuse; sexual assault; sexual exploitation

As used in this article, "sexual abuse" means sexual assault or sexual exploitation as defined by the following:

(a) "Sexual assault" means conduct in violation of one or more of the following sections: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), or 647a (child molestation).

(b) Conduct described as "sexual assault" includes, but is not limited to, all of the following:

(1) Any penetration, however slight, of the vagina or anal opening of one person by the penis of another person, whether or not there is the emission of semen.

(2) Any sexual contact between the genitals or anal opening of one person and the mouth or tongue of another person.

(3) Any intrusion by one person into the genitals or anal opening of another person, including the use of any object for this purpose, except that, it does not include acts performed for a valid medical purpose.

(4) The intentional touching of the genitals or intimate parts (including the breasts, genital area, groin, inner thighs, and buttocks) or the clothing covering them, of a child, or of the perpetrator by a child, for purposes of sexual arousal or gratification, except that, it does not include acts which may reasonably be construed to be normal caretaker responsibilities; interactions with, or demonstrations of affection for, the child; or acts performed for a valid medical purpose.

(5) The intentional masturbation of the perpetrator's genitals in the presence of a child.

(c) "Sexual exploitation" refers to any of the following:

(1) Conduct involving matter depicting a minor engaged in obscene acts in violation of Section 311.2 (preparing, selling, or distributing obscene matter) or subdivision (a) of Section 311.4 (employment of minor to perform obscene acts).

(2) Any person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or any person responsible for a child's welfare, who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or a live performance involving obscene sexual conduct, or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, drawing, painting, or other pictorial depiction, involving obscene sexual conduct. For the purpose of this section, "person responsible for a child's welfare" means a parent, guardian, foster parent, or a licensed administrator or employee of a public or private residential home, residential school, or other residential institution.

(3) Any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, video tape, negative, or slide in which a child is engaged in an act of obscene sexual conduct, except for those activities by law enforcement and prosecution agencies and other persons described in subdivisions (c) and (e) of Section 311.3. *(Added by Stats. 1987, c. 1459, § 5.)*

§ 11165.2. Neglect; severe neglect; general neglect

As used in this article, "neglect" means the negligent treatment or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions on the part of the responsible person.

(a) "Severe neglect" means the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive. "Severe neglect" also means those situations of neglect where any person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered, as proscribed by Section 11165.3, including the intentional failure to provide adequate food, clothing, shelter, or medical care.

(b) "General neglect" means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred.

For the purposes of this chapter, a child receiving treatment by spiritual means as provided in Section 16509.1 of the Welfare and Institutions Code or not receiving specified medical treatment for religious reasons, shall not for that reason alone be considered a neglected child. An informed and appropriate medical decision made by parent or guardian after consultation with a physician or physicians who have examined the minor does not constitute neglect. *(Added by Stats. 1987, c. 1459, § 7.)*

§ 11165.3. Willful cruelty or unjustifiable punishment of a child

As used in this article, "willful cruelty or unjustifiable punishment of a child" means a situation where any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered. *(Added by Stats. 1987, c. 1459, § 9.)*

§ 11165.4. Unlawful corporal punishment or injury

As used in this article, "unlawful corporal punishment or injury" means a situation where any person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition. It does not include an amount of force that is reasonable and necessary for a person employed by or engaged in a public school to quell a disturbance threatening physical injury to person or damage to property, for purposes of self-defense, or to obtain possession of weapons or other dangerous objects within the control of the pupil, as authorized by Section 49001 of the Education Code. It also does not include the exercise of the degree of physical control authorized by Section 44807 of the Education Code. *(Added by Stats. 1987, c. 1459, § 10.)*

§ 11165.5. Abuse in out-of-home care

As used in this article, "abuse in out-of-home care" means a situation of physical injury on a child which is inflicted by other than accidental means, or of sexual abuse or neglect, or unlawful corporal punishment or injury, or the willful cruelty or unjustifiable punishment of a child, as defined in this article, where the person responsible for the child's welfare is a licensee, administrator, or employee of any facility licensed to care for children, or an administrator or employee of a public or private school or other institution or agency. (Added by Stats. 1987, c. 1459, § 12.)

§ 11165.6. Child abuse

As used in this article, "child abuse" means a physical injury which is inflicted by other than accidental means on a child by another person. "Child abuse" also means the sexual abuse of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (unlawful corporal punishment or injury). "Child abuse" also means the neglect of a child or abuse in out-of-home care, as defined in this article. "Child abuse" does not mean a mutual affray between minors. (Added by Stats. 1987, c. 1459, § 13.)

§ 11165.7. Child care custodian

(a) As used in this article, "child care custodian" means a teacher; an instructional aide, a teacher's aide, or a teacher's assistant employed by any public or private school, who has been trained in the duties imposed by this article, if the school district has so warranted to the State Department of Education; a classified employee of any public school who has been trained in the duties imposed by this article, if the school has so warranted to the State Department of Education; an administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee of any public or private school; an administrator of a public or private day camp; a licensee, an administrator, or an employee of a licensed community care or child day care facility; headstart teacher; a licensing worker or licensing evaluator; public assistance worker; an employee of a child care institution including, but not limited to, foster parents, group home personnel and personnel of residential care facilities; a social worker or a probation officer or any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school.

(b) Training in the duties imposed by this article shall include training in child abuse identification and training in child abuse reporting. As part of that training, school districts shall provide to all employees being trained a written copy of the reporting requirements and a written disclosure of the employees' confidentiality rights.

(c) School districts which do not train the employees specified in subdivision (a) in the duties of child care custodians under the child abuse reporting laws shall report to the State Department of Education the reasons why this training is not provided. (Added Stats. 1987, c. 1459, § 14.)

§ 11165.8. Health practitioner

As used in this article, "health practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code; a marriage, family and child counselor; any emergency medical technician I or II, paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code; a psychological assistant registered pursuant to Section 2913 of the Business and Professions Code; a marriage, family and child counselor trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code; an unlicensed marriage, family and child counselor intern registered under Section 4980.44 of the Business and Professions Code; a state or county public health employee who treats a minor for venereal disease or any other condition; a coroner; or a religious practitioner who diagnoses, examines, or treats children. *(Added by Stats. 1987, c. 1459, § 15.)*

§ 11165.9. Child protective agency

As used in this article, "child protective agency" means a police or sheriff's department, a county probation department, or a county welfare department. It does not include a school district police or security department. *(Added by Stats. 1987, c. 1459, § 16.)*

§ 11165.10. Commercial film and photographic print processor

As used in this article, "commercial film and photographic print processor" means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term includes any employee of such a person; it does not include a person who develops film or makes prints for a public agency. *(Added by Stats. 1987, c. 1459, § 17.)*

§ 11165.11. Licensing agency

As used in this article, "licensing agency" means the State Department of Social Services office responsible for the licensing and enforcement of the California Community Care Facilities Act (Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code), the California Child Day Care Act (Chapter 3.4 (commencing with Section 1596.70) of Division 2 of the Health and Safety Code), and Chapter 3.5 (commencing with Section 1596.90) of Division 2 of the Health and Safety Code), or the county licensing agency which has contracted with the state for performance of those duties. *(Added by Stats. 1987, c. 1459, § 18.)*

§ 11165.12. Unfounded report

As used in this article, "unfounded report" means a report which is determined by a child protective agency investigator to be false, to be inherently improbable, to involve an accidental injury, or not to constitute child abuse as defined in Section 11165.6. *(Added by Stats. 1987, c. 1459, § 19.)*

§ 11166. Report; duty; time

(a) Except as provided in subdivision (b), any child care custodian, health practitioner, or employee of a child protective agency who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she knows or reasonably suspects has been the victim of child abuse shall report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and shall prepare and send a written report thereof within 36 hours of receiving the information concerning the incident. For the purposes of this article, "reasonable suspicion" means that it is objectively reasonable for a person to entertain such a suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate on his or her training and experience, to suspect child abuse. For the purpose of this article, the pregnancy of a minor does not, in and of itself, constitute the basis of reasonable suspicion of sexual abuse.

(b) Any child care custodian, health practitioner, or employee of a child protective agency who has knowledge of or who reasonably suspects that mental suffering has been inflicted on a child or his or her emotional well-being is endangered in any other way, may report such known or suspected instance of child abuse to a child protective agency.

(c) Any commercial film and photographic print processor who has knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, video tape, negative or slide depicting a child under the age of 14 years engaged in an act of sexual conduct, shall report such instance of suspected child abuse to the law enforcement agency having jurisdiction over the case immediately or as soon as practically possible by telephone and shall prepare and send a written report of it with a copy of the film, photograph, video tape, negative or slide attached within 36 hours of receiving the information concerning the incident. As used in this subdivision, "sexual conduct" means any of the following:

(1) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals.

(2) Penetration of the vagina or rectum by any object.

(3) Masturbation, for the purpose of sexual stimulation of the viewer.

(4) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.

(5) Exhibition of the genitals, pubic or rectal areas of any person for the purpose of sexual stimulation of the viewer.

(d) Any other person who has knowledge of or observes a child whom he or she knows or reasonably suspects has been a victim of child abuse may report the known or suspected instance of child abuse to a child protective agency.

(e) When two or more persons who are required to report are present and jointly have knowledge of a known or suspected instance of child abuse, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by such selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so, shall thereafter make the report.

(f) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties and no person making such a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established provided that they are not inconsistent with the provisions of this article.

The internal procedures shall not require any employee required to make reports by this article to disclose his or her identity to the employer.

(g) A county probation or welfare department shall immediately or as soon as practically possible report by telephone to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's office every known or suspected instance of child abuse as defined in Section 11165.6, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall only be reported to the county welfare department. A county probation or welfare department shall also send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.

A law enforcement agency shall immediately or as soon as practically possible report by telephone to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and to the district attorney's office every known or suspected instance of child abuse reported to it, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall only be reported to the county welfare department. A law enforcement agency shall report to the county welfare department every known or suspected instance of child abuse reported to it which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or as the result of the failure of a person responsible for the child's welfare to adequately protect the minor from abuse when the person responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency shall also send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision. *(Added by Stats. 1980, c. 1071, § 4. Amended by Stats. 1981, c. 435, § 2; Stats. 1982, c. 905, § 2; Stats. 1984, c. 1423, § 9; Stats. 1986, c. 1289, § 2; Stats. 1987, c. 1459, § 20.)*

§ 11166.1. Report of abuse occurring in facilities licensed by State Department of Social Services; notice

When a child protective agency receives a report of abuse alleged to have occurred in facilities licensed to care for children by the State Department of Social Services, it shall, within 24 hours, notify the licensing office with jurisdiction over the facility. The child protective agency shall send the licensing agency a copy of its investigation and any other pertinent materials. *(Added by Stats. 1985, c. 1593, § 3. Amended by Stats. 1987, c. 531, § 4.)*

For another section of the same number, see § 11166.1, post.

§ 11166.1. Violation of reporting duties; punishment

Any supervisor or administrator who violates subdivision (f) of Section 11166 is guilty of a misdemeanor which is punishable by confinement in the county jail for a term not to exceed six months or by a fine of not more than one thousand dollars (\$1,000) or by both. (*Added by Stats. 1985, c. 1598, § 3.5.*)

For another section of the same number, see § 11161.1, ante.

§ 11166.2. Telephoned report of child abuse to licensed agencies; written reports

In addition to the reports required under Section 11166, a child protective agency shall immediately or as soon as practically possible report by telephone to the appropriate licensing agency every known or suspected instance of child abuse, except acts or omissions coming within the provisions of paragraph (2) of subdivision (c) of Section 11165, which shall only be reported to the county welfare department, when the instance of abuse occurs while the child is being cared for in a child day care facility, involves a child day care licensed staff person, or occurs while the child is under the supervision of a community care facility or involves a community care facility licensee or staff person. A child protective agency shall also send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision. A child protective agency shall send the licensing agency a copy of its investigation report and any other pertinent materials. (*Added by Stats. 1985, c. 1598, § 4. Amended by Stats. 1987, c. 531, § 5.*)

§ 11166.3. Legislative intent; cooperative arrangements for investigation; written findings; report

(a) The Legislature intends that in each county the law enforcement agencies and the county welfare or social services department shall develop and implement cooperative arrangements in order to coordinate existing duties in connection with the investigation of suspected child abuse cases. The local law enforcement agency having jurisdiction over a case reported under Section 11166 shall report to the county welfare department that it is investigating the case within 36 hours after starting its investigation. The county welfare department or social services department shall, in accordance with the requirements of subdivision (c) of Section 288, evaluate what action or actions would be in the best interest of the child victim. Notwithstanding any other provision of law, the county welfare department or social services department shall submit in writing its findings and the reasons therefor to the district attorney on or before the completion of the investigation. The written findings and the reasons therefore shall be delivered or made accessible to the defendant or his or her counsel in the manner specified in Sections 859 and 1430. The child protective agency shall send a copy of its investigative report and any other pertinent materials to the licensing agency upon the request of the licensing agency.

(b) The local law enforcement agency having jurisdiction over a case reported under Section 11166 shall report to the district office of the State Department of Social Services any case reported under this section if the case involves a facility specified in paragraph (5) or (6) of Section 1502 or in Section 1596.750 or 1596.76 of the Health and Safety Code and the licensing of the facility has not been delegated to a county agency. The law enforcement agency shall send a copy of its investigation report and any other pertinent materials to the licensing agency upon the request of the licensing agency.

(Formerly § 11166.1, added by Stats. 1985, c. 1262, § 2. Renumbered § 11166.3 and amended by Stats. 1986, c. 1122, § 1.5; Stats. 1987, c. 531, § 3.)

§ 11166.5. Employment as child care custodian, health practitioner, or with child protective agency; statement of knowledge of duty to report abuse

(a) Any person who enters into employment on and after January 1, 1985, as a child care custodian, health practitioner, or with a child protective agency, prior to commencing his or her employment, and as a prerequisite to that employment, shall sign a statement on a form provided to him or her by his or her employer to the effect that he or she has knowledge of the provisions of Section 11166 and will comply with its provisions.

The statement shall include the following provisions:

Section 11166 of the Penal Code requires any child care custodian, health practitioner, or employee of a child protective agency who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she knows or reasonably suspects has been the victim of child abuse to report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and to prepare and send a written report thereof within 36 hours of receiving the information concerning the incident.

"Child care custodian" includes teachers; an instructional aide, a teacher's aide, or a teacher's assistant employed by any public or private school, who has been trained in the duties imposed by this article, if the school district has so warranted to the State Department of Education; a classified employee of any public school who has been trained in the duties imposed by this article, if the school has so warranted to the State Department of Education; administrative officers, supervisors of child welfare and attendance, or certificated pupil personnel employees of any public or private school; administrators of a public or private day camp; licensees, administrators, and employees of licensed community care or child day care facilities; headstart teachers; licensing workers or licensing evaluators; public assistance workers; employees of a child care institution including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities; and social workers or probation officers; or any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school.

"Health practitioner" includes physicians and surgeons, psychiatrists, psychologists, dentists, residents, interns, podiatrists, chiropractors, licensed nurses, dental hygienists, optometrists, or any other person who is licensed under Division 2 (commencing with Section 500) of the Business and Professions Code; marriage, family and child counselors; emergency medical technicians I or II, paramedics, or other persons certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code; psychological assistants registered pursuant to Section 2913 of the Business and Professions Code; marriage, family and child counselor trainees as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code; unlicensed marriage, family and child counselor interns registered under Section 4980.44 of the Business and Professions Code; state or county public health employees who treat minors for venereal disease or any other condition; coroners; paramedics; and religious practitioners who diagnose, examine, or treat children.

The signed statements shall be retained by the employer. The cost of printing, distribution, and filing of these statements shall be borne by the employer.

The subdivision is not applicable to persons employed by child protective agencies as members of the support staff or maintenance staff and who do not work with, observe, or have knowledge of children as part of their official duties.

(b) On and after January 1, 1986, when a person is issued a state license or certificate to engage in a profession or occupation, the members of which are required to make a report pursuant to Section 11166, the state agency issuing the license or certificate shall send a statement substantially similar to the one contained in subdivision (a) to the person at the same time as it transmits the document indicating licensure or certification to the person. In addition to the requirements contained in subdivision (a), the statement shall also indicate that failure to comply with the requirements of Section 11166 is a misdemeanor, punishable by up to six months in jail or by a fine of one thousand dollars (\$1,000) or by both.

(c) As an alternative to the procedure required by subdivision (b), a state agency may cause the required statement to be printed on all application forms for a license or certificate printed on all application forms for a license or certificate printed on or after January 1, 1986. (*Added by Stats. 1984, c. 1718, § 1. Amended by Stats. 1985, c. 464, § 1; Stats. 1985, c. 1598, § 5.1; Stats. 1986, c. 248, § 168; Stats. 1987, c. 1459, § 21.*)

§ 11167. Report; contents

(a) A telephone report of a known or suspected instance of child abuse shall include the name of the person making the report, the name of the child, the present location of the child, the nature and extent of the injury, and any other information, including information that led that person to suspect child abuse, requested by the child protective agency.

(b) Information relevant to the incident of child abuse may also be given to an investigator from a child protective agency who is investigating the known or suspected case of child abuse.

(c) Information relevant to the incident of child abuse may be given to the licensing agency when it is investigating a known or suspected case of child abuse, including the investigation report, and other pertinent materials.

(d) The identity of all persons who report under this article shall be confidential and disclosed only between child protective agencies, or to counsel representing a child protective agency, or to the district attorney in a criminal prosecution or in an action initiated under Section 602 of the Welfare and Institutions Code arising from alleged child abuse, or to counsel appointed pursuant to Section 318 of the Welfare and Institutions Code, or to the county counsel or district attorney in an action initiated under Section 232 of the Civil Code or Section 300 of the Welfare and Institutions Code, or to a licensing agency when abuse in out-of-home care is reasonably suspected, or when those persons waive confidentiality, or by court order.

No agency or person listed in this subdivision shall disclose the identity of any person who reports under this article to that person's employer, except with the employee's consent or by court order.

(e) Persons who may report pursuant to subdivision (d) of Section 11166 are not required to include their names. *(Added by Stats. 1980, c. 1071, § 4. Amended by Stats. 1981, c. 435, § 3; Stats. 1982, c. 162, § 2; Stats. 1984, c. 144, § 164; Stats. 1985, c. 1598, § 6; Stats. 1986, c. 1289, § 3; Stats. 1987, c. 531, § 6.)*

§ 11167.5. Confidentiality of reports; violations; disclosure

(a) The reports required by Sections 11166 and 11166.2 shall be confidential and may be disclosed only as provided in subdivision (b). Any violation of the confidentiality provided by this article shall be a misdemeanor punishable by up to six months in jail or by a fine of five hundred dollars (\$500) or by both.

(b) Reports of suspected child abuse and information contained therein may be disclosed only to the following:

(1) Persons or agencies to whom disclosure of the identity of the reporting party is permitted under Section 11167.

(2) Persons or agencies to whom disclosure of information is permitted under subdivision (b) of Section 11170.

(3) Persons or agencies with whom investigations of child abuse are coordinated under the regulations promulgated under Section 11174.

(4) Multidisciplinary personnel teams as defined in subdivision (d) of Section 18951 of the Welfare and Institutions Code.

(5) Persons or agencies responsible for the licensing of facilities which care for children, as specified in Section 11165.7.

(6) The State Department of Social Services, as specified in paragraph (3) of subdivision (b) of Section 11170, when an individual has applied for a community care license or child day care license, or for employment in an out-of-home care facility, or when a complaint alleges child abuse by an operator or employee of an out-of-home care facility.

(7) Hospital scan teams. As used in this paragraph, "hospital scan team" means a team of three or more persons established by a hospital, or two or more hospitals in the same county, consisting of health care professionals and representatives of law enforcement and child protective services, the members of which are engaged in the identification of child abuse. The disclosure authorized by this section includes disclosure among hospital scan teams located in the same county.

(c) Nothing in this section shall be interpreted to require the Department of Justice to disclose information contained in records maintained under Section 11169 or under the regulations promulgated pursuant to Section 11174, except as otherwise provided in this article.

(d) This section shall not be interpreted to allow disclosure of any reports or records relevant to the reports of child abuse if the disclosure would be prohibited by any other provisions of state or federal law applicable to the reports or records relevant to the reports of child abuse. (*Added by Stats. 1983, c. 1082, § 1. Amended by Stats. 1985, c. 1593, § 4; Stats. 1985, c. 1598, § 7.5; Stats. 1987, c. 167, § 1; Stats. 1987, c. 1459, § 22.*)

§ 11168. Written reports; forms

The written reports required by Section 11166 shall be submitted on forms adopted by the Department of Justice after consultation with representatives of the various professional medical associations and hospital associations and county probation or welfare departments. Such forms shall be distributed by the child protective agencies. (*Added by Stats. 1980, c. 1071, § 4.*)

§ 11169. Reports of department of justice; investigations; unfounded reports; immunities

A child protective agency shall forward to the Department of Justice a report in writing of every case it investigates of known or suspected child abuse which is determined not to be unfounded, other than cases coming within the provisions of paragraph (2) of subdivision (c) of Section 11165. A child protective agency shall not forward a report to the Department of Justice unless it has conducted an active investigation and determined that the report is not unfounded, as defined in subdivision (n) of Section 11165. If a report has previously been filed which subsequently proves to be unfounded, the Department of Justice shall be notified in writing of that fact and shall not retain the report. The report required by this section shall be in a form approved by the Department of Justice. A child protective agency receiving written report from another child protective agency shall not send such report to the Department of Justice.

The immunity provisions of Section 11172 shall not apply to the submission of a report by a child protective agency pursuant to this section. However, nothing in this section shall be construed to alter or diminish any other immunity provisions of state or federal law. (*Added by Stats. 1980, c. 1071, § 4. Amended by Stats. 1981, c. 435, § 4; Stats. 1985, c. 1598, § 8.*)

§ 11170. Indexed reports; notice to child protective agencies or district attorneys; availability of information; notice to parents or guardians

(a) The Department of Justice shall maintain an index of all reports of child abuse submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be unfounded. The department may adopt rules governing recordkeeping and reporting pursuant to this article.

(b)(1) The Department of Justice shall immediately notify a child protective agency which submits a report pursuant to Section 11169, or a district attorney who requests notification, of any information maintained pursuant to subdivision (a) which is relevant to the known or suspected instance of child abuse reported by the agency. A child protective agency shall make that information available to the reporting medical practitioner, child custodian, guardian ad litem appointed under Section 326, or counsel appointed under Section 318 of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she is treating or investigating a case of known or suspected child abuse.

(2) When a report is made pursuant to subdivision (a) of Section 11166, the investigating agency shall, upon completion of the investigation or after there has been a final disposition in the matter, inform the person required to report of the results of the investigation and of any action the agency is taking with regard to the child or family.

(3) The department shall make available to the State Department of Social Services any information received subsequent to January 1, 1981, pursuant to this section concerning any person who is an applicant for licensure or employment in a position having supervisory or disciplinary power over a child or children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.876 of the Health and Safety Code, or Section 226 of the Civil Code. If the department has information which has been received subsequent to January 1, 1981, concerning such a person, it shall also make available to the State Department of Social Services any other information maintained pursuant to subdivision (a).

(4) The Department shall notify parents or legal guardians requesting a background examination of a professional child care provider pursuant to Chapter 3.65 (commencing with Section 1597.80) of Division 2 of the Health and Safety Code, of the fact that a substantiated report exists which indicates that the professional child care provider was a suspect of child abuse subsequent to January 1, 1981, or prior to January 1, 1981, if there was also a report subsequent to that date.

(5) The department shall notify parents or legal guardians requesting a background examination of a professional child care provider pursuant to Chapter 3.65 (commencing with Section 1597.80) of Division 2 of the Health and Safety Code, of the fact that no substantiated report exists which indicates that the professional child care provider was a suspect of child abuse subsequent to January 1, 1981. (*Added by Stats. 1980, c. 1071, § 4. Amended by Stats. 1981, c. 435, § 5; Stats. 1982, c. 162, § 3; Stats. 1984, c. 1613, § 3; Stats. 1985, c. 1598, § 8.5; Stats. 1986, c. 1496, § 3; Stats. 1987, c. 82, § 4.*)

§ 11171. X-rays of child; exemption from privilege

(a) A physician and surgeon or dentist or their agents and by their direction may take skeletal X-rays of the child without the consent of the child's parent or guardian, but only for purposes of diagnosing the case as one of possible child abuse and determining the extent of such child abuse.

(b) Neither the physician-patient privilege nor the psychotherapist-patient privilege applies to information reported pursuant to this article in any court proceeding or administrative hearing. (*Added by Stats. 1980, c. 1071, § 4.*)

§ 11171.5. X-rays without parental consent; application for order; liability for costs

(a) If a peace officer, in the course of an investigation of child abuse, has reasonable cause to believe that the child has been the victim of physical abuse, the officer may apply to a magistrate for an order directing that the victim be X-rayed without parental consent.

Any X-ray taken pursuant to this subdivision shall be administered by a physician and surgeon or dentist or their agents.

(b) With respect to the cost of an X-ray taken by the county coroner or at the request of the county coroner in suspected child abuse cases, the county may charge the parent or legal guardian of the child-victim the costs incurred by the county for the X-ray.

(c) No person who administers an X-ray pursuant to this section shall be entitled to reimbursement from the county for any administrative cost that exceeds 5 percent of the cost of the X-ray. *(Added by Stats. 1985, c. 317, § 1.)*

§ 11172. Immunity from liability; liability for false reports; attorneys fees; failure to report; offense

(a) No child care custodian, health practitioner, employee of a child protective agency, or commercial film and photographic print processor who reports a known or suspected instance of child abuse shall be civilly or criminally liable for any report required or authorized by this article. Any other person reporting a known or suspected instance of child abuse shall not incur civil or criminal liability as a result of any report authorized by this article unless it can be proven that a false report was made and the person knew that the report was false or was made with reckless disregard of the truth or falsity of the report, and any such person who makes a report of child abuse known to be false or with reckless disregard of the truth or falsity of the report is liable for any damages caused. No person required to make a report pursuant to this article, nor any person taking photographs at his or her direction, shall incur any civil or criminal liability for taking photographs of a suspected victim of child abuse, or causing photographs to be taken of a suspected victim of child abuse, without parental consent, or for disseminating the photographs with the reports required by this article. However, the provisions of this section shall not be construed to grant immunity from this liability with respect to any other use of the photographs.

(b) Any child care custodian, health practitioner, or employee of a child protective agency who, pursuant to a request from a child protective agency, provides the requesting agency with access to the victim of a known or suspected instance of child abuse shall not incur civil or criminal liability as a result of providing that access.

(c) The Legislature finds that even though it has provided immunity from liability to persons required to report child abuse, that immunity does not eliminate the possibility that actions may be brought against those persons based upon required reports of child abuse. In order to further limit the financial hardship that those persons may incur as a result of fulfilling their legal responsibilities, it is necessary that they not be unfairly burdened by legal fees incurred in defending those actions. Therefore, a child care custodian, health practitioner, an employee of a child protective agency, or commercial film and photographic print processor may present a claim to the State Board of Control for reasonable attorneys' fees incurred in any action against that person on the basis of making a report required or authorized by this article if the court has dismissed the action upon a demurrer or motion for summary judgment made by that person, or if he or she prevails in the action. The State Board of Control shall allow that claim if the requirements of this subdivision are met, and the claim

shall be paid from an appropriation to be made for that purpose. Attorneys' fees awarded pursuant to this section shall not exceed an hourly rate greater than the rate charged by the Attorney General of the State of California at the time the award is made and shall not exceed an aggregate amount of fifty thousand dollars (\$50,000).

This subdivision shall not apply if a public entity has provided for the defense of the action pursuant to Section 995 of the Government Code.

(d) A court may award attorney's fees to a commercial film and photographic print processor when a suit is brought against the processor because of a disclosure mandated by this article and the court finds this suit to be frivolous.

(e) Any person who fails to report an instance of child abuse which he or she knows to exist or reasonably should know to exist, as required by this article, is guilty of a misdemeanor and is punishable by confinement in the county jail for a term not to exceed six months or by a fine of not more than one thousand dollars (\$1,000) or by both. (*Added by Stats. 1980, c. 1071, § 4. Amended by Stats. 1981, c. 135, § 1; Stats. 1981, c. 435, § 6; Stats. 1984, c. 1170, § 2; Stats. 1984, c. 1703, § 2; Stats. 1984, c. 1718, § 3; Stats. 1985, c. 1598, § 9; Stats. 1986, c. 553, § 1; Stats. 1987, c. 1459, § 23.*)

§ 11174. Guidelines

The Department of Justice, in cooperation with the State Department of Social Services, shall prescribe by regulation guidelines for the investigation of abuse in out-of-home care, as defined in subdivision (f) of Section 11165, and shall ensure that the investigation is conducted in accordance with the regulations and guidelines. (*Added by Stats. 1980, c. 1071, § 4. Amended by Stats. 1981, c. 435, § 7; Stats. 1982, c. 162, § 4. Stats. 1985, c. 1528, § 3.*)

§ 11174.1. Investigation of child abuse in facilities licensed to care for children; guidelines; conduct

The Department of Justice, in cooperation with the State Department of Social Services, shall prescribe by regulation guidelines for the investigation of child abuse, as defined in subdivision (f) of Section 11165, in facilities licensed to care for children, and shall ensure that the investigation is conducted in accordance with the regulations and guidelines. (*Added by Stats. 1985, c. 1593, § 5.*)

§ 11174.3. Interviewing victim at school; presence of school staff member; confidentiality; admissibility of evidence; informing school districts and agency employees of section requirements

(a) Whenever a representative of a child protective agency deems it necessary, a suspected victim of child abuse may be interviewed during school hours, on school premises, concerning a report of suspected child abuse that occurred within the child's home. The child shall be afforded the option of being interviewed in private or selecting any adult who is a member of the staff of the school, including any certificated or classified employee or volunteer aide, to be present at the interview. A representative of the child protective agency shall inform the child of that right prior to the interview. The purpose of the staff person's presence at the interview is to lend support to the child and enable him or her to be as comfortable as possible; however, the member of the staff so elected shall

not participate in the interview. The member of the staff so present shall not discuss the facts or circumstances of the case with the child. The member of the staff so present, including, but not limited to, a volunteer aide, is subject to the confidentiality requirements of this article, a violation of which is punishable as specified in Section 11167.5. A representative of the school shall inform a member of the staff so selected by a child of the requirements of this section prior to the interview. A staff member selected by a child may decline the request to be present at the interview. If the staff person selected agrees to be present, the interview shall be held at a time during school hours when it does not involve an expense to the school. Failure to comply with the requirements of this section does not affect the admissibility of evidence in a criminal or civil proceeding.

(b) The Superintendent of Public Instruction shall notify each school district, and each child protective agency shall notify each of its employees who participate in the investigation of reports of child abuse, of the requirements of this section. (*Added by Stats. 1987, c. 640, § 2.*)

SEXUAL ASSAULT

California Penal Code Sections:

261
264.1
285
286
288
288a
289
647a

[Section 647a was renumbered 647.6 and amended by Statutes of 1987]
11165.1

§ 261. Rape defined

Rape is an act of sexual intercourse accomplished with a person not the spouse of the perpetrator, under any of the following circumstances:

(1) Where a person is incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

(2) Where it is accomplished against a person's will by means of force, violence, or fear of immediate and unlawful bodily injury on the person or another.

(3) Where a person is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, administered by or with the privity of the accused.

(4) Where a person is at the time unconscious of the nature of the act, and this is known to the accused.

(5) Where a person submits under the belief that the person committing the act is the victim's spouse, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief.

(6) Where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat. As used in this paragraph "threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

(7) Where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official. As used in this paragraph, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official. (*Enacted 1872. Amended by Stats. 1889, c. 191, § 1; Stats. 1897, c. 139, § 1; Stats. 1913, c. 122, § 1; Stats. 1970, c. 1301, § 1; Stats. 1979, c. 994, § 1; Stats. 1980, c. 587, § 1; Stats. 1981, c. 849, § 1; Stats. 1983, c. 949, § 1; Stats. 1984, c. 1634, § 1; Stats. 1984, c. 1635, § 79.5; Stats. 1985, c. 283, § 1; Stats. 1986, c. 1299, § 1.*)

§ 264.1. Rape or penetration of genital or anal openings by foreign object, etc.; acting in concert by force or violence; punishment

The provisions of Section 264 notwithstanding, in any case in which the defendant, voluntarily acting in concert with another person, by force or violence and against the will of the victim, committed an act described in Section 261 or 289, either personally or by aiding and abetting the other person, that fact shall be charged in the indictment or information and if found to be true by the jury, upon a jury trial, or if found to be true by the court, upon a

court trial, or if admitted by the defendant, the defendant shall suffer confinement in the state prison for five, seven, or nine years. (*Added by Stats. 1967, c. 1551, § 1. Amended by Stats. 1976, c. 1139, § 155; Stats. 1978, c. 579, § 15; Stats. 1982, c. 1111, § 4.*)

§ 285. Incest

Persons being within the degrees of consanguinity within which marriages are declared by law to be incestuous and void, who intermarry with each other, or who commit fornication or adultery with each other, are punishable by imprisonment in the state prison. (*Enacted 1872. Amended by Stats. 1921, c. 101, § 1; Stats. 1976, c. 1139, § 174.*)

§ 286. Sodomy; punishment

(a) Sodomy is sexual conduct consisting of contact between the penis of one person and the anus of another person.

(b)(1) Except as provided in Section 288, any person who participates in an act of sodomy with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(2) Except as provided in Section 288, any person over the age of 21 years who participates in an act of sodomy with another person who is under 16 years of age shall be guilty of a felony.

(c) Any person who participates in an act of sodomy with another person who is under 14 years of age and more than 10 years younger than he or she, or when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person or where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat shall be punished by imprisonment in the state prison for three, six, or eight years.

(d) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting such other person, commits an act of sodomy when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person or where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat shall be punished by imprisonment in the state prison for five, seven, or nine years.

(e) Any person who participates in an act of sodomy with any person of any age while confined in any state prison, as defined in Section 4504, or in any local detention facility as defined in Section 6031.4 shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(f) Any person who commits an act of sodomy, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(g) Except as provided in subdivision (h), a person who commits an act of sodomy, and the victim is at the time incapable, because of a mental disorder or

developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison, for three, six, or eight years. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

(h) Any person who commits an act of sodomy, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(i) Any person who commits an act of sodomy, where the victim is prevented from resisting by an intoxicating or anesthetic substance, or any controlled substance, administered by or with the privity of the accused, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(j) Any person who commits an act of sodomy, where the victim submits under the belief that the person committing the act is the victim's spouse, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(k) Any person who commits an act of sodomy, where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

As used in this subdivision, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(l) As used in subdivisions (c) and (d) "threatening to retaliate" means a threat to kidnap or falsely imprison, or inflict extreme pain, serious bodily injury, or death. *(Enacted 1872. Amended by Stats. 1921, c. 90, § 1; Stats. 1949, 1st Ex. Sess., c. 15, § 1; Stats. 1952, 1st Ex. Sess., c. 23, § 2; Stats. 1975, c. 71, § 7; Stats. 1975, c. 877, § 1; Stats. 1976, c. 1139, § 175; Stats. 1977, c. 490, § 1; Stats. 1978, c. 579, § 16; Stats. 1979, c. 944, § 6; Stats. 1980, c. 915, § 1; Stats. 1981, c. 896, § 1; Stats. 1983, c. 949, § 2; Stats. 1985, c. 929, § 1; Stats. 1985, c. 1063, § 1; Stats. 1985, c. 1085, § 2; Stats. 1986, c. 1299, § 3.)*

§ 288. Lewd or lascivious acts with child under age 14; punishment; prevention of psychological harm to victim; additional fine

(a) Any person who shall willfully and lewdly commit any lewd or lascivious act including any of the acts constituting other crimes provided for in Part 1 of this code upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of such person or of such child, shall be guilty of a felony and shall be imprisoned in the state prison for a term of three, six, or eight years.

(b) Any person who commits an act described in subdivision (a) by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, shall be guilty of a felony and shall be imprisoned in the state prison for a term of three, six or eight years.

(c) In any arrest or prosecution under this section the peace officer, the district attorney, and the court shall consider the needs of the child victim and shall do whatever is necessary and constitutionally permissible to prevent psychological harm to the child victim.

(d) Upon the conviction of any person for a violation of subdivision (a) or (b), the court may, in addition to any other penalty or fine imposed, order the defendant to pay an additional fine not to exceed five thousand dollars (\$5,000). In setting the amount of the fine, the court shall consider any relevant factors including, but not limited to, the seriousness and gravity of the offense, and the circumstances of its commission, whether the defendant derived any economic gain as a result of the crime, and the extent to which the victim suffered economic losses as a result of the crime. Every fine imposed and collected under this section shall be deposited in the Victim-Witness Assistance Fund to be available for appropriation to fund child sexual exploitation and child sexual abuse victim counseling centers and prevention programs pursuant to Section 13837.

If the court orders a fine to be imposed pursuant to this subdivision, the actual administrative cost of collecting that fine, not to exceed 2 percent of the total amount paid, may be paid into the general fund of the county treasury for the use and benefit of the county. (*Added by Stats. 1901, c. 204, § 1. Amended by Stats. 1933, c. 405, § 1; Stats. 1937, c. 545, § 1; Stats. 1976, c. 1139, § 177; Stats. 1978, c. 579, § 17; Stats. 1979, c. 944, § 6.5; Stats. 1981, c. 1064, § 1; Stats. 1986, c. 1299, § 4; Stats. 1987, c. 1068, § 3.*)

§ 288a. Oral copulation; punishment

(a) Oral copulation is the act of copulating the mouth of one person with the sexual organ or anus of another person.

(b)(1) Except as provided in Section 288, any person who participates in an act of oral copulation with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(2) Except as provided in Section 288, any person over the age of 21 years who participates in an act of oral copulation with another person who is under 16 years of age shall be guilty of a felony.

(c) Any person who participates in an act of oral copulation with another person who is under 14 years of age and more than 10 years younger than he or she, or when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person or where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat shall be punished by imprisonment in the state prison for three, six, or eight years.

(d) Any person who, while voluntarily acting in concert with another person, either personally or by aiding and abetting such other person, commits an act of oral copulation (1) when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, or (2) where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, or (3) where the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act shall be punished by imprisonment in the state prison for five, seven, or nine years. Notwithstanding the appointment of a conservator with respect to the victim pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime described under paragraph (3), that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(e) Any person who participates in an act of oral copulation while confined in any state prison, as defined in Section 4504 or in any local detention facility as defined in Section 6031.4, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(f) Any person who commits an act of oral copulation, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(g) Except as provided in subdivision (h), any person who commits an act of oral copulation, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be

punished by imprisonment in the state prison, for three, six, or eight years. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

(h) Any person who commits an act of oral copulation, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(i) Any person who commits an act of oral copulation, where the victim is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, administered by or with the privity of the accused, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(j) Any person who commits an act of oral copulation, where the victim submits under the belief that the person committing the act is the victim's spouse, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(k) Any person who commits an act of oral copulation, where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

As used in this subdivision, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(1) As used in subdivisions (c) and (d) "threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death. (*Added by Stats. 1921, c. 848, § 2. Amended by Stats. 1950, 1st Ex. Sess., c. 56, § 1; Stats. 1952, 1st Ex. Sess., c. 23, § 3; Stats. 1955, c. 274, § 1; Stats. 1975, c. 71, § 10; Stats. 1975, c. 877, § 2; Stats. 1976, c. 1139, § 178; Stats. 1977, c. 490, § 2; Stats. 1978, c. 579, § 18; Stats. 1979, c. 944, § 7; Stats. 1980, c. 915, § 2; Stats. 1981, c. 896, § 2; Stats. 1982, c. 1111, § 5; Stats. 1983, c. 949, § 3; Stats. 1985, c. 929, § 2; Stats. 1985, c. 1062, § 1; Stats. 1985, c. 1085, § 5; Stats. 1986, c. 1299, § 5.*)

§ 289. Penetration of genital or anal openings by foreign object, etc.;
punishment

(a) Every person who causes the penetration, however slight, of the genital or anal openings of another person for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person or where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for three, six, or eight years.

(b) Except as provided in subdivision (c), every person who causes the penetration, however slight, of the genital or anal openings of another person for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison for three, six, or eight years. Notwithstanding the appointment of a conservator with respect to the victim pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(c) Every person who causes the penetration, however slight, of the genital or anal openings of another person for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(d) Every person who causes the penetration, however slight, of the genital or anal openings of another person for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act, shall be punished by imprisonment in the state prison for three, six, or eight years.

(e) Every person who causes the penetration, however slight, of the genital or anal openings of another person for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, where the victim

is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, administered by or with the privity of the accused, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(f) Every person who causes the penetration, however slight, of the genital or anal openings of another person for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, where the victim submits under the belief that the person committing the act is the victim's spouse, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(g) Every person who causes the penetration, however slight, of the genital or anal openings of another person for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

As used in this subdivision, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(h) Except as provided in Section 288, any person who participates in an act of penetration of vaginal or anal openings with a foreign object, substance, instrument, or device of a person who is under 18 years of age for the purpose of sexual arousal, gratification, or abuse, shall be punished by imprisonment in the state prison or in the county jail for a period of not more than one year.

(i) Except as provided in Section 288, any person over the age of 21 years who participates in an act of penetration of the vaginal or anal openings with a foreign object, substance, instrument, or device of another person who is under 16 years of age for the purpose of sexual arousal, gratification, or abuse, shall be guilty of a felony.

(j) Any person who participates in an act of penetration of the anal or vaginal openings with a foreign object, instrument, or device of another person who is under 14 years of age and who is more than 10 years younger than he or she for the purpose of sexual arousal, gratification, or abuse, shall be punished by imprisonment in the state prison for three, six, or eight years.

(k) As used in this section, "foreign object, substance, instrument, or device" shall include any part of the body except a sexual organ.

(l) As used in subdivision (a) "threatening to retaliate" means a threat to kidnap or falsely imprison, or inflict extreme pain, serious bodily injury or death. (Added by Stats 1978, c. 1313, § 1. Amended by Stats. 1980, c. 409, § 1; Stats. 1980, c. 915, § 3; Stats. 1981, c. 896, § 3; Stats. 1982, c. 1111, § 6; Stats. 1985, c. 929, § 3; Stats. 1985, c. 945, § 1; Stats 1986, c. 1299, § 6.)

§ 647.6. Annoying or molesting child under 18; punishment

Every person who annoys or molests any child under the age of 18 is punishable by a fine not exceeding one thousand dollars (\$1,000) or by imprisonment in the county jail for not exceeding one year or by both the fine and imprisonment. Every person who violates this section after having entered, without consent, an inhabited dwelling house, or trailer coach as defined in Section 635 of the Vehicle Code, or the inhabited portion of any other building, is punishable by imprisonment in the state prison, or in the county jail not exceeding one year. Every person who violates this section is punishable upon the second and each subsequent conviction by imprisonment in the state prison. Every person who violates this section after a previous felony conviction under this section, conviction under Section 288, or felony conviction under Section 311.4 involving a minor under the age of 14 years is punishable by imprisonment in the state prison for two, four, or six years. In any case in which a person is convicted of violating this section and probation is granted, the court shall require counseling as a condition of probation, unless the court makes a written statement in the court record, that counseling would be inappropriate or ineffective. (Formerly § 647a, added by Stats. 1929, c. 376, § 1, and amended by Stats. 1947, c. 730, § 1; Stats. 1949, 1st Ex. Sess., c. 14, § 1; Stats. 1950, 1st Ex. Sess., c. 34, § 1; Stats. 1951, c. 1200, § 1; Stats. 1952, 1st Ex. Sess., c. 23, § 5; Stats. 1955, c. 169, § 3; Stats. 1957, c. 1735, § 1; Stats. 1967, c. 154, § 1; Stats. 1976, c. 1139, § 262; Stats. 1982, c. 1113, § 3; Stats. 1983, c. 1092, § 315; Stats. 1986, c. 264, § 2; Stats. 1987, c. 423, § 1; Stats. 1987, c. 1394, § 1. Renumbered § 647.6 and amended by Stats. 1987, c. 1418, § 4.3.)

§ 11165.1. Sexual abuse; sexual assault; sexual exploitation

As used in this article, "sexual abuse" means sexual assault or sexual exploitation as defined by the following:

(a) "Sexual assault" means conduct in violation of one or more of the following sections: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), 288a (oral copulation), 289 (penetration of genital or anal opening by a foreign object), or 647a (child molestation).

(b) Conduct described as "sexual assault" includes, but is not limited to, all of the following:

(1) Any penetration, however slight, of the vagina or anal opening of one person by the penis of another person, whether or not there is the emission of semen.

(2) Any sexual contact between the genitals or anal opening of one person and the mouth or tongue of another person.

(3) Any intrusion by one person into the genitals or anal opening of another person, including the use of any object for this purpose, except that, it does not include acts performed for a valid medical purpose.

(4) The intentional touching of the genitals or intimate parts (including the breasts, genital area, groin, inner thighs, and buttocks) or the clothing covering them, of a child, or of the perpetrator by a child, for purposes of sexual arousal or gratification, except that, it does not include acts which may reasonably be construed to be normal caretaker responsibilities; interactions with, or demonstrations of affection for, the child; or acts performed for a valid medical purpose.

(5) The intentional masturbation of the perpetrator's genitals in the presence of a child.

SEXUAL EXPLOITATION

California Penal Code Sections:

311.2
311.3
311.4
11165.1

§ 311.2. Sending or bringing into state for sale or distribution; printing, exhibiting, distributing, exchanging or possessing within state; matter depicting sexual conduct by minor; transaction with minor; exemptions

(a) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, or prints, with intent to distribute or to exhibit to others, or who offers to distribute, distributes, or exhibits to others, any obscene matter is for a first offense, guilty of a misdemeanor. If the person has previously been convicted of any violation of this section, the court may, in addition to the punishment authorized in Section 311.9, impose a fine not exceeding fifty thousand dollars (\$50,000).

(b) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, develops, duplicates, or prints, with intent to distribute or to exhibit to, or to exchange with, others for commercial consideration, or who offers to distribute, distributes, or exhibits to, or exchanges with, others for commercial consideration, any obscene matter, knowing that the matter depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct, as defined in Section 311.4, is guilty of a felony and shall be punished by imprisonment in state prison for two, three, or six years, or by a fine not exceeding one hundred thousand dollars (\$100,000), in the absence of a finding that the defendant would be incapable of paying such a fine, or by both such fine and imprisonment.

(c) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, develops, duplicates, or prints, with intent to distribute or to exhibit to, or to exchange with, a person 18 years of age or older, or who offers to distribute, distributes, or exhibits to, or exchanges with, a person 18 years of age or older any matter, knowing that the matter depicts a person under the age of 17 years personally engaging in or personally simulating sexual conduct, as defined in Section 311.4, is guilty of a misdemeanor and shall be punished by imprisonment in the county jail for up to one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both such fine and imprisonment. It is not necessary to prove commercial consideration or that the matter is obscene in order to establish a violation of this subdivision. If a person has been previously convicted of a violation of this subdivision, he or she is guilty of a felony.

(d) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, develops, duplicates, or prints, with intent to distribute or to exhibit to, or to exchange with, a person under 18 years of age, or who offers to distribute, distributes, or exhibits to, or exchanges with, a person under 18 years of age any matter, knowing that the matter depicts a person under the age of 17 years personally engaging in or personally simulating sexual conduct, as defined in Section 311.4, is guilty of a felony. It is not necessary to prove commercial consideration or that the matter is obscene in order to establish a violation of this subdivision.

(e) Subdivisions (a) to (d), inclusive, shall not apply to the activities of law enforcement and prosecuting agencies in the investigation and prosecution of criminal offenses or to legitimate medical, scientific, or educational activities, or to lawful conduct between spouses.

(f) This section shall not apply to matter which depicts a child under the age of 18, which child is legally emancipated, including lawful conduct between spouses when one or both are under the age of 18. (Added by Stats. 1961, c. 2147, § 5. Amended by Stats. 1968, c. 399, § 1; Stats. 1969, c. 249, § 2; Stats. 1975, c. 793, § 1; Stats. 1977, c. 1061, § 1; Stats. 1984, c. 1413, § 1; Stats. 1984, c. 1489, § 1; Stats. 1985, c. 1066, § 1; Stats. 1985, c. 1099, § 5.)

§ 311.3. Depicting by film, photograph, video tape, etc. sexual conduct by person under age 14; punishment; exemptions

(a) A person is guilty of sexual exploitation of a child when he or she knowingly develop, duplicate, print, or exchange any film, photograph, video tape, negative, or slide in which a person under age of 14 years engaged in an act of sexual conduct.

(b) As used in this section "sexual conduct" means any of the following:

(1) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals.

(2) Penetration of the vagina or rectum by any object.

(3) Masturbation, for the purpose of sexual stimulation of the viewer.

(4) Sadoomasochistic abuse for the purpose of sexual stimulation of the viewer.

(5) Exhibition of the genitals, pubic or rectal areas of any person for the purpose of sexual stimulation of the viewer.

(6) Defecation or urination for the purpose of sexual stimulation of the viewer.

(c) Subdivision (a) shall not apply to the activities of law enforcement and prosecution agencies in the investigation and prosecution of criminal offenses or to legitimate medical, scientific, or educational activities, or to lawful conduct between spouses.

(d) Every person who violates subdivision (a) is punishable by a fine of not more than two thousand dollars (\$2,000) or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment. If such person has been previously convicted of a violation of subdivision (a) or any section of this chapter, he or she is punishable by imprisonment in the state prison.

(e) The provisions of this section shall not apply to an employee of a commercial film developer who is acting within the scope of his employment and in accordance with the instructions of his employer, provided that the employee has no financial interest in the commercial developer by which he is employed. (Added by Stats. 1981, c. 1056, § 1.)

§ 311.4. Employment of minor to perform prohibited acts; exception

(a) Every person who, with knowledge that a person is a minor, or who, while in possession of any facts on the basis of which he or she should reasonably know that the person is a minor, hires, employs, or uses the minor to do or assist in doing any of the acts described in Section 311.2, is, for a first offense, guilty of a misdemeanor. If the person has previously been convicted of any violation of

this section, the court may, in addition to the punishment authorized in Section 311.9, impose a fine not exceeding fifty thousand dollars (\$50,000).

(b) Every person who, with knowledge that a person is a minor under the age of 17 years, or who, while in possession of any facts on the basis of which he or she should reasonably know that the person is a minor under the age of 17 years, knowingly promotes, employs, uses, persuades, induces, or coerces a minor under the age of 17 years, or any parent or guardian of a minor under the age of 17 years under his or her control who knowingly permits the minor, to engage in or assist others to engage in either posing or modeling alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving sexual conduct by a minor under the age of 17 years alone or with other persons or animals, for commercial purposes, is guilty of a felony and shall be punished by imprisonment in the state prison for three, six, or eight years.

(c) Every person who, with knowledge that a person is a minor under the age of 17 years, or who, while in possession of any facts on the basis of which he or she should reasonably know that the person is a minor under the age of 17 years, knowingly promotes, employs, uses, persuades, induces, or coerces a minor under the age of 17 years, or any parent or guardian of a minor under the age of 17 years under his or her control who knowingly permits the minor, to engage in or assist others to engage in either posing or modeling alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving sexual conduct by a minor under the age of 17 years alone or with other persons or animals, is guilty of a felony. It shall not be necessary to prove commercial purposes in order to establish a violation of this subdivision.

(d) As used in subdivisions (b) and (c), "sexual conduct" means any of the following, whether actual or simulated: sexual intercourse, oral copulation, anal intercourse, anal copulation, masturbation, bestiality, sexual sadism, sexual masochism, penetration of the vagina or rectum by any object in a lewd or lascivious manner, exhibition of the genitals, pubic, or rectal area for the purpose of sexual stimulation of the viewer, any lewd or lascivious sexual act as defined in Section 288, or excretory functions performed in a lewd or lascivious manner, whether or not any of the above conduct is performed alone or between members of the same or opposite sex or between humans and animals. An act is simulated when it gives the appearance of being sexual conduct.

(e) This section shall not apply where the minor is legally emancipated, including lawful conduct between spouses when one or both are under the age of 17.

(f) In every prosecution under this section involving a minor under the age of 14 years at the time of the offense, the age of the victim shall be pled and proven for the purpose of the enhanced penalty provided in Section 647a. Failure to plead and prove that the victim was under the age of 14 years at the time of the offense shall not be a bar to prosecution under this section if it is proven that the victim was under the age of 18 years at the time of the offense. (*Added by Stats. 1961, c. 2147, § 5. Amended by Stats. 1977, c. 1148, § 3; Stats. 1981, c. 1043, § 4; Stats. 1984, c. 1489, § 2; Stats. 1985, c. 1066, § 2; Stats. 1987, c. 1394, § 5.*)

§ 11165.1

...
(c) "Sexual exploitation" refers to any of the following:

(1) Conduct involving matter depicting a minor engaged in obscene acts in violation of Section 311.2 (preparing, selling, or distributing obscene matter) or subdivision (a) of Section 311.4 (employment of minor to perform obscene acts).

(2) Any person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or any person responsible for a child's welfare, who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or a live performance involving obscene sexual conduct, or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, drawing, painting, or other pictorial depiction, involving obscene sexual conduct. For the purpose of this section, "person responsible for a child's welfare" means a parent, guardian, foster parent, or a licensed administrator or employee of a public or private residential home, residential school, or other residential institution.

(3) Any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, video tape, negative, or slide in which a child is engaged in an act of obscene sexual conduct, except for those activities by law enforcement and prosecution agencies and other persons described in subdivisions (c) and (e) of Section 311.3. (*Added by Stats. 1987, c. 1459, § 5.*)

PHYSICAL ABUSE

California Penal Code Sections:

273a
273d
11165.3
11165.4

California Education Code Sections:

44807
49001

§ 273a. Willful cruelty or unjustifiable punishment of child; endangering life or health

(1) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for 2, 4, or 6 years.

(2) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health may be endangered, is guilty of a misdemeanor. (Added by Stats. 1905, c. 568, § 5. Amended by Stats. 1963, c. 783, § 1; Stats. 1965, c. 697, § 1; Stats. 1976, c. 1139, § 165; Stats. 1980, c. 1117, § 4; Stats. 1984, c. 1423, § 2.)

§ 273d. Corporal punishment or injury of child; felony; punishment; counseling as condition of probation

Any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 4, or 6 years, or in the county jail for not more than one year, or by a fine of up to six thousand dollars (\$6,000) or by both.

In any case in which a person is convicted of violating this section and probation is granted, the court shall require supervised counseling as a condition of probation unless, considering all of the facts and circumstances, the court finds counseling inappropriate for the defendant. (Added by Stats. 1945, c. 1312, § 1. Amended by Stats. 1957, c. 1342, § 1; Stats. 1965, c. 1271, § 4; Stats. 1976, c. 1139, § 166; Stats. 1977, c. 908, § 1; Stats. 1977, c. 912, § 2; Stats. 1980, c. 1117, § 5; Stats. 1984, c. 1423, § 3; Stats. 1987, c. 415, § 1.)

§ 11165.3. Willful cruelty or unjustifiable punishment of a child

As used in this article, "willful cruelty or unjustifiable punishment of a child" means a situation where any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered. (Added by Stats. 1987, c. 1459, § 9.)

§ 11165.4. Unlawful corporal punishment or injury

As used in this article, "unlawful corporal punishment or injury" means a situation where any person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition. It does not include an amount of force that is reasonable and necessary for a person employed by or engaged in a public school to quell a disturbance threatening physical injury to person or damage to property, for purposes of self-defense, or to obtain

possession of weapons or other dangerous objects within the control of the pupil, as authorized by Section 49001 of the Education Code. It also does not include the exercise of the degree of physical control authorized by Section 44807 of the Education Code. (*Added by Stats. 1987, c. 1459, § 10.*)

EDUCATION CODE

§ 44807. Duty concerning conduct of pupils

Every teacher in the public schools shall hold pupils to a strict account for their conduct on the way to and from school, on the playgrounds, or during recess. A teacher, vice principal, principal, or any other certificated employee of a school district, shall not be subject to criminal prosecution or criminal penalties for the exercise, during the performance of his duties, of the same degree of physical control over a pupil that a parent would be legally privileged to exercise but which in no event shall exceed the amount of physical control reasonably necessary to maintain order, protect property, or protect the health and safety of pupils, or to maintain proper and appropriate conditions conducive to learning. The provisions of this section are in addition to and do not supersede the provisions of Section 49000. (*Stats. 1976, c. 1010, § 2, operative April 30, 1977.*)

§ 49001. Prohibition of corporal punishment of pupils

(a) For the purposes of this section "corporal punishment" means the willful infliction of, or willfully causing the infliction of, physical pain on a pupil. An amount of force that is reasonable and necessary for a person employed by or engaged in a public school to quell a disturbance threatening physical injury to persons or damage to property, for purposes of self-defense, or to obtain possession of weapons or other dangerous objects within the control of the pupil, is not and shall not be construed to be corporal punishment within the meaning and intent of this section. Physical pain or discomfort caused by athletic competition or other such recreational activity, voluntarily engaged in by the pupil, is not and shall not be construed to be corporal punishment within the meaning and intent of this section.

(b) No person employed by or engaged in a public school shall inflict, or cause to be inflicted corporal punishment upon a pupil. Every resolution, bylaw, rule, ordinance, or other act or authority permitting or authorizing the infliction of corporal punishment upon a pupil attending a public school is void and unenforceable. (*Added by Stats. 1986, c. 1069, § 4.*)

NEGLECT

California Penal Code Section:

11165.2

California Welfare and Institutions Code Section:

16509.1

§ 11165.2. Neglect; severe neglect; general neglect

As used in this article, "neglect" means the negligent treatment or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions on the part of the responsible person.

(a) "Severe neglect" means the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive. "Severe neglect" also means those situations of neglect where any person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered, as prescribed by Section 11165.3, including the intentional failure to provide adequate food, clothing, shelter, or medical care.

(b) "General neglect" means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred.

For the purposes of this chapter, a child receiving treatment by spiritual means as provided in Section 16509.1 of the Welfare and Institutions Code or not receiving specified medical treatment for religious reasons, shall not for that reason alone be considered a neglected child. An informed and appropriate medical decision made by parent or guardian after consultation with a physician or physicians who have examined the minor does not constitute neglect. (*Added by Stats. 1987, c. 1459, § 7.*)

WELFARE AND INSTITUTIONS CODE

§ 16509.1. Treatment of children by spiritual means through prayer; neglect

No child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall, for that reason alone, be considered to have been neglected within the purview of this chapter. (*Added by Stats. 1982, c. 978, p. 3555, § 62, urgency, eff. Sept. 13, 1982, operative July 1, 1982.*)

MENTAL/EMOTIONAL ABUSE
California Penal Code Section:

11165.3

§ 11165.3. Willful cruelty or unjustifiable punishment of a child

As used in this article, "willful cruelty or unjustifiable punishment of a child" means a situation where any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered. (*Added by Stats. 1987, c. 1459, § 9.*)

MISCELLANEOUS CITATIONS

California Health and Safety Code Sections:

1502
1596.76
1596.78

California Welfare and Institutions Code Section:

4512

HEALTH AND SAFETY CODE

§ 1502.

...
(5) "Foster family home" means any residential facility providing 24-hour care for six or fewer foster children which is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. Such placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian.

(6) "Small family home" means any residential facility providing 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities.

(1) "Residential facility" means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.
...

§ 1596.78. "Family day care home"

"Family day care home" means a home which regularly provides care, protection, and supervision of 12 or fewer children, in the provider's own home, for periods of less than 24 hours per day, while the parents or guardians are away, and includes the following:

(1) "Large family day care home" which means a home which provides family day care to 7 to 12 children, inclusive, including children who reside at the home, as defined in regulations.

(2) "Small family day care home" which means a home which provides family day care to six or fewer children, including children who reside at the home, as defined in regulations.

§ 1596.76. "Day care center"

"Day care center" means any child day care facility other than a family day care home, and includes infant centers, preschools, and extended day care facilities.

WELFARE AND INSTITUTIONS CODE

§ 4512. Definitions

As used in this part:

(a) "Developmental disability" means a disability which originates before an individual attains age 18, continues, or can be expected to continue, indefinitely, and constitutes a substantial handicap for such individual. As defined by the Director of Developmental Services, in consultation with the Superintendent of Public Instruction, this term shall include mental retardation, cerebral palsy, epilepsy, and autism. This term shall also include handicapping conditions found to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, but shall not include other handicapping conditions that are solely physical in nature.

...

FORM SAMPLES

SS8583
SS8572
DOJ900
OCJP923
OCJP925

TO BE TYPED OR PRINTED - PRESS FIRMLY - DO NOT USE FELT PEN

CHILD ABUSE INVESTIGATION REPORT To be Completed by Investigating Child Protective Agency Pursuant to Penal Code Section 11169 (SHADED AREAS MUST BE COMPLETED)						FOR DOJ USE ONLY A761710	
A. INVESTIGATING AGENCY	1. INVESTIGATING AGENCY (Enter complete name and check type):				2. AGENCY REPORT NO/CASE NAME:		
	3. AGENCY ADDRESS: Street City				4. AGENCY TELEPHONE: EXT:		
	5. NAME OF INVESTIGATING PARTY: TITLE				6. DATE REPORT COMPLETED: MO DA YR		
	7. AGENCY CROSS-REPORTED TO:		8. PERSON CROSS-REPORTED TO:		9. DATE CROSS-REPORTED: MO DA YR		
	10. ACTION TAKEN (check only one box):				11. COMMENTS:		
<input type="checkbox"/> (1) ABUSE SUSPECTED <input type="checkbox"/> (2) UNSUBSTANTIATED ABUSE NOT PROVEN <input type="checkbox"/> (3) POLICE <input type="checkbox"/> (4) WELFARE <input type="checkbox"/> (5) SHERIFF <input type="checkbox"/> (6) PROBATION				<input type="checkbox"/> (7) SUPPLEMENTAL INFORMATION (Attach copy of original report) <input type="checkbox"/> (8) UNSUBSTANTIATED <input type="checkbox"/> (9) ADDITIONAL INFORMATION <input type="checkbox"/> (10) UNFOUNDED (false report, accidental, improbable)			
B. INCIDENT INFORMATION	1. DATE OF INCIDENT: MO DA YR		2. TIME OF INCIDENT:		3. LOCATION OF INCIDENT:		
	4. NAME OF PARTY REPORTING INCIDENT: TITLE				5. EMPLOYER:		
	6. TYPE OF ABUSE (check one or more):				7. TELEPHONE: ()		
	<input type="checkbox"/> (1) PHYSICAL <input type="checkbox"/> (2) MENTAL <input type="checkbox"/> (3) NEGLECT (PHYSICAL) <input type="checkbox"/> (4) OTHER SEXUAL ASSAULT <input type="checkbox"/> (5) SEXUAL EXPLOITATION <input type="checkbox"/> (6) SEVERE NEGLECT <input type="checkbox"/> (7) GENERAL NEGLECT <input type="checkbox"/> (8) OTHER				8. IF ABUSE OCCURRED IN OUT-OF-HOME CARE, CHECK TYPE		
	<input type="checkbox"/> (1) FAMILY DAY CARE <input type="checkbox"/> (2) CHILD CARE CENTER <input type="checkbox"/> (3) FOSTER FAMILY HOME <input type="checkbox"/> (4) SMALL FAMILY HOME <input type="checkbox"/> (5) GROUP HOME OR INSTITUTION				Enter name and address:		
C. INVOLVED PARTIES	VICTIMS	1. NAME: Last First Middle AKA		DO B MO DA YR		MALE FEMALE	
		ADDRESS: Street City State		DO B MO DA YR		MALE FEMALE	
		PRESENT LOCATION OF VICTIM: TELEPHONE NUMBER:		DO B MO DA YR		MALE FEMALE	
		DO VICTIM'S INJURIES RESULT IN DEATH? <input type="checkbox"/> YES <input type="checkbox"/> NO		DO B MO DA YR		MALE FEMALE	
		NATURE OF INJURIES: IS VICTIM DEVELOPMENTALLY DISABLED (AS IN) WAY? <input type="checkbox"/> YES <input type="checkbox"/> NO		DO B MO DA YR		MALE FEMALE	
	SUSPECTS	2. NAME: Last First Middle AKA		DO B MO DA YR		MALE FEMALE	
		ADDRESS: Street City State		DO B MO DA YR		MALE FEMALE	
		PRESENT LOCATION OF VICTIM: TELEPHONE NUMBER:		DO B MO DA YR		MALE FEMALE	
		DO VICTIM'S INJURIES RESULT IN DEATH? <input type="checkbox"/> YES <input type="checkbox"/> NO		DO B MO DA YR		MALE FEMALE	
		NATURE OF INJURIES: IS VICTIM DEVELOPMENTALLY DISABLED (AS IN) WAY? <input type="checkbox"/> YES <input type="checkbox"/> NO		DO B MO DA YR		MALE FEMALE	
OTHER	3. NAME: Last First Middle AKA		DO B MO DA YR		MALE FEMALE		
	ADDRESS: Street City State		DO B MO DA YR		MALE FEMALE		
	PRESENT LOCATION OF VICTIM: TELEPHONE NUMBER:		DO B MO DA YR		MALE FEMALE		
	DO VICTIM'S INJURIES RESULT IN DEATH? <input type="checkbox"/> YES <input type="checkbox"/> NO		DO B MO DA YR		MALE FEMALE		
	NATURE OF INJURIES: IS VICTIM DEVELOPMENTALLY DISABLED (AS IN) WAY? <input type="checkbox"/> YES <input type="checkbox"/> NO		DO B MO DA YR		MALE FEMALE		

*RACE CODES: W-White, B-Black, H-Hispanic, A-Asian, P-Pacific Islander, I-American Indian/Alaskan Native, O-Other, X-Unknown
 [] CHECK HERE IF ADDITIONAL SHEET(S) IS ATTACHED.
 15-0301 (Rev. 3/97) PINK COPY-DOJ; WHITE COPY-Police or Sheriff; BLUE COPY-Courtesy Welfare or Probation; GREEN COPY-Attorney's Office

SUSPECTED CHILD ABUSE REPORT

To Be Completed by Reporting Party
Pursuant to Penal Code Section 11166

A. CASE IDENTIFICATION	TO BE COMPLETED BY INVESTIGATING CPA
	VICTIM NAME: _____
	REPORT NO./CASE NAME: _____
DATE OF REPORT: _____	

B. REPORTING PARTY	NAME/TITLE _____	
	ADDRESS _____	
C. REPORT SENT TO	PHONE () _____	DATE OF REPORT _____ SIGNATURE OF REPORTING PARTY _____
	<input type="checkbox"/> POLICE DEPARTMENT <input type="checkbox"/> SHERIFF'S OFFICE <input type="checkbox"/> COUNTY WELFARE <input type="checkbox"/> COUNTY PROBATION	
D. INVOLVED PARTIES	AGENCY _____	ADDRESS _____
	OFFICIAL CONTACTED _____	PHONE () _____ DATE/TIME _____
	NAME (LAST, FIRST, MIDDLE) _____	ADDRESS _____ BIRTHDATE _____ SEX _____ RACE _____
	PRESENT LOCATION OF CHILD _____ PHONE () _____	
E. INCIDENT INFORMATION	1. NAME _____ BIRTHDATE _____ SEX _____ RACE _____ NAME _____ BIRTHDATE _____ SEX _____ RACE _____ 2. _____ 3. _____ 4. _____ 5. _____ 6. _____ NAME (LAST, FIRST, MIDDLE) _____ BIRTHDATE _____ SEX _____ RACE _____ NAME (LAST, FIRST, MIDDLE) _____ BIRTHDATE _____ SEX _____ RACE _____ ADDRESS _____ ADDRESS _____ HOME PHONE () _____ BUSINESS PHONE () _____ HOME PHONE () _____ BUSINESS PHONE () _____	
	IF NECESSARY, ATTACH EXTRA SHEET OR OTHER FORM AND CHECK THIS BOX. <input type="checkbox"/> 1. DATE/TIME OF INCIDENT _____ PLACE OF INCIDENT (CHECK ONE) <input type="checkbox"/> OCCURRED <input type="checkbox"/> OBSERVED	
	IF CHILD WAS IN OUT-OF-HOME CARE AT TIME OF INCIDENT, CHECK TYPE OF CARE: <input type="checkbox"/> FAMILY DAY CARE <input type="checkbox"/> CHILD CARE CENTER <input type="checkbox"/> FOSTER FAMILY HOME <input type="checkbox"/> SMALL FAMILY HOME <input type="checkbox"/> GROUP HOME OR INSTITUTION 2. TYPE OF ABUSE: (CHECK ONE OR MORE) <input type="checkbox"/> PHYSICAL <input type="checkbox"/> MENTAL <input type="checkbox"/> SEXUAL ASSAULT <input type="checkbox"/> NEGLECT <input type="checkbox"/> OTHER	
	3. NARRATIVE DESCRIPTION: _____ _____ _____ 4. SUMMARIZE WHAT THE ABUSED CHILD OR PERSON ACCOMPANYING THE CHILD SAID HAPPENED: _____ _____ _____ 5. EXPLAIN KNOWN HISTORY OF SIMILAR INCIDENT(S) FOR THIS CHILD: _____ _____ _____	

SS 8572 (REV. 7/87)

INSTRUCTIONS AND DISTRIBUTION ON REVERSE

DO NOT submit a copy of this form to the Department of Justice (DOJ). A CPA is required under Penal Code Section 11169 to submit to DOJ a Child Abuse Investigation Report Form SS-8583 if (1) an active investigation has been conducted and (2) the incident is not unfounded.

Police or Sheriff-WHITE Copy; County Welfare or Probation-BLUE Copy; District Attorney-GREEN Copy; Reporting Party-YELLOW Copy

MEDICAL REPORT—SUSPECTED SEXUAL ASSAULT

Patients requesting examination, treatment and evidence collection: Penal Code § 13823.5 requires every physician who conducts a medical examination for evidence of a sexual assault to use this form to record findings. Complete each part of the form and if an item is inapplicable, write N/A.

Patients requesting examination and treatment only: Penal Code § 11160-11161 requires physicians and hospitals to notify a law enforcement agency by telephone and in writing if treatment is sought for injuries inflicted in violation of any state penal law. If the patient consents to treatment only, complete Part A # 1 and 2, Part B # 1, and Part E # 1-10 to the extent it is relevant to treatment, and mail this form to the local law enforcement agency.

Minors: Civil Code § 34.9 permits minors, 12 years of age or older, to consent to medical examination, treatment, and evidence collection related to a sexual assault without parental consent. Physicians are required, however, to attempt to contact the parent or legal guardian and note in the treatment record the date and time the attempted contact was made including whether the attempt was successful or unsuccessful. This provision is not applicable if the physician reasonably believes the parent or guardian committed the sexual assault on the minor. If applicable, check here () and note the date and time the attempt to contact parents was made in the treatment record.

Liability and release of information: No civil or criminal liability attaches to filling out this form. Confidentiality is not breached by releasing it to law enforcement agencies.

A. GENERAL INFORMATION
(write or type)

Name of Hospital:

1. Name of patient

Patient ID number

2. Address

City

County

State

Phone
() ()

3. Age

DOB

Sex

Race

Date/time of arrival

Date/time of exam

Date/time of discharge

Mode of transportation

4. Phone report made to law enforcement agency:

Name of officer

Agency

ID number

Phone

5. Responding officer

Agency

ID number

Phone

B. PATIENT CONSENT

1. I understand that hospitals and physicians are required by Penal Code § 11160-11161 to report to law enforcement authorities cases in which medical care is sought when injuries have been inflicted upon any person in violation of any state penal law. The report must state the name of the injured person, current whereabouts, and the type and extent of injuries.

Patient/Parent/Guardian (circle)

2. I understand that a separate medical examination for evidence of sexual assault at public expense can, with my consent, be conducted by a physician to discover and preserve evidence of the assault. If conducted, the report of the examination and any evidence obtained will be released to law enforcement authorities. I understand that the examination may include the collection of reference specimens at the time of the examination or at a later date. Knowing this, I consent to a medical examination for evidence of sexual assault. I understand that I may withdraw consent at any time for any portion of the evidential examination.

Patient/Parent/Guardian (circle)

3. I understand that collection of evidence may include photographing injuries and that these photographs may include the genital area. Knowing this, I consent to having photographs taken.

Patient/Parent/Guardian (circle)

4. I have been informed that victims of crime are eligible to submit crime victim compensation claims to the State Board of Control for out-of-pocket medical expenses, loss of wages, and job retraining and rehabilitation. I further understand that counseling is also a reimbursable expense.

Patient/Parent/Guardian (circle)

C. AUTHORIZATION FOR EVIDENTIAL EXAM

I request a medical examination and collection of evidence for suspected sexual assault of the patient at public expense.

Law Enforcement Officer

Agency

ID Number

Date

DISTRIBUTION OF OCJP 923 FOR EVIDENTIAL EXAMS ONLY**HOSPITAL IDENTIFICATION INFORMATION**

ORIGINAL TO LAW ENFORCEMENT;
PINK COPY TO CRIME LAB (SUBMIT WITH EVIDENCE);
YELLOW COPY TO HOSPITAL RECORDS

MEDICAL REPORT—SUSPECTED CHILD SEXUAL ABUSE

Record examination findings: Penal Code § 13823.5 requires every physician who conducts a medical examination for evidence of child sexual abuse to use this form to record findings. Complete each part of the form and if an item is inapplicable, write N/A.

Child abuse reporting law: Penal Code § 11166 requires all professional medical personnel to report suspected child abuse, defined by Penal Code § 11165, immediately by telephone and submit a written report (DOJ SS 8572) within 36 hours to the local law enforcement agency, county department of social services or probation department. Professional medical personnel means any physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.

Minors: Civil Code § 34.9 permits minors, 12 years of age or older, to consent to medical examination, treatment, and evidence collection related to a sexual assault without parental consent. Physicians are required, however, to attempt to contact the parent or legal guardian and note in the treatment record the date and time the attempted contact was made including whether the attempt was successful or unsuccessful. This provision is not applicable if the physician reasonably believes the parent or guardian committed the sexual assault on the minor. If applicable, check here () and note date and time attempt to contact parents was made in the treatment record.

Utility and release of information: No civil or criminal liability attaches to filling out this form. Confidentiality is not breached by releasing this form or other relevant information contained in the medical records to law enforcement or child protective agencies (Penal Code § 11167).

A. AUTHORIZATION FOR EXAM REQUESTED BY PATIENT/PARENT/GUARDIAN (Note: Parental consent for an evidential examination is not required in cases of known or suspected child abuse. Contact a law enforcement or child protective service agency.)

I hereby request a medical examination for evidence of sexual abuse and treatment for injuries. I understand that collection of evidence may include photographing injuries and these photographs may include the genital area. I further understand that hospitals and physicians are required to notify child protective authorities of known or suspected child abuse and if child abuse is found or suspected, this form and any evidence obtained will be released to a child protective agency.

Patient/Parent/Guardian (circle)

I have been informed that victims of crime are eligible to submit crime victim compensation claims to the State Board of Control for out-of-pocket medical expenses, loss of wages, and job retraining and rehabilitation. I further understand that counseling is also a reimbursable expense.

Patient/Parent/Guardian (circle)

B. AUTHORIZATION FOR EVIDENTIAL EXAM REQUESTED BY CHILD PROTECTIVE AGENCY

I request a medical examination and collection of evidence for suspected sexual abuse of the patient at public expense.

Law enforcement officer or child protective services		Agency		ID number		Date	
C. GENERAL INFORMATION				Name of Hospital:			
1. Name of patient				Patient ID number			
2. Address		City		County		State Phone	
3. Age	DOB	Sex	Race	Date/time of arrival	Date/time of exam	Date/time of discharge	
4. Name of: () Mother () Stepmother () Guardian		Address		City	County	State	Phone (W) (H)
5. Name of: () Father () Stepfather () Guardian		Address		City	County	State	Phone (W) (H)
6. Siblings: Name		DOB	Name	DOB	Name	DOB	
7. Phone report made to: () Law enforcement agency							
Name		Agency		ID number	Phone		
() Child protective services							
Name		Agency		ID number	Phone		
8. Responding officer		Agency		ID number	Phone		

DISTRIBUTION OF OCJP 925**HOSPITAL IDENTIFICATION INFORMATION**

ORIGINAL TO CHILD PROTECTIVE AGENCY REQUESTING EXAM;
PINK COPY TO CRIME LAB (SUBMIT WITH EVIDENCE);
YELLOW COPY TO HOSPITAL RECORDS